EXAMINING THE CONTINUING CRISIS IN RESIDENTIAL FORECLOSURES AND THE EMERGING COMMERCIAL REAL ESTATE CRISIS: PERSPECTIVES FROM ATLANTA

HEARING

BEFORE THE

SUBCOMMITTEE ON DOMESTIC POLICY

OF THE

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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EXAMINING THE CONTINUING CRISIS IN RESIDENTIAL FORECLOSURES AND THE EMERGING COMMERCIAL REAL ESTATE CRISIS: PERSPECTIVES FROM ATLANTA

MONDAY, NOVEMBER 2, 2009

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON DOMESTIC POLICY,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM,
Atlanta, GA.

The subcommittee met, pursuant to notice, at 11:40 a.m., in the Committee Room 450, Georgia State Capitol, 206 Washington Street, S.W., Atlanta, GA, Hon. Dennis J. Kucinich (chairman of the subcommittee) presiding.

Present: Representatives Kucinich, Westmoreland, and Scott.

Staff present: Jaron R. Bourke, staff director; Yonatan Zamir, counsel; and Christopher Hixon, minority counsel.

Mr. KUCINICH. The Domestic Policy Subcommittee of the House Oversight and Government Reform Committee will now come to order.

Today's field hearing will examine the local characteristics of the ongoing residential and commercial real estate crisis.

Without objection, the Chair and the ranking minority member will have 2 minutes to make opening statements, followed by opening statements not to exceed 2 minutes by any other Member who seeks recognition. And without objection, Members and witnesses may have 5 legislative days to submit a written statement or extraneous materials for the record.

For the purposes of this subcommittee field hearing, Mr. Westmoreland of Georgia is deemed to be a member of the subcommittee and after I make my opening statement, I will yield to him as well as Mr. Scott, who has asked to participate and is deemed to be a member of the subcommittee for the purpose of this hearing.

I want to thank all those in the audience who are here for this hearing and to extend my thanks to Georgia State Senator Vincent Fort. Senator Fort, welcome. Senator Fort graciously assisted my staff in obtaining this location here at the Georgia State Capitol Building for our hearing today. I appreciate it very much, Senator.

I would also like to welcome my friend, Mr. Westmoreland, Congressman Westmoreland and Congressman Scott. Congressman Westmoreland, of course, is on the Government Reform Committee, on the full committee, and it was a conversation that he and I had that led to this subcommittee meeting. And giving it full support is Congressman Scott, who is a member of the Financial Services

Committee, and because of his work on Financial Services, we were able to have a meeting of the minds about the importance of this hearing today, and we appreciate his presence as well.

When Congressman Westmoreland approached me, he specifically talked about his concern about the impact of the real estate financial crisis on America, and in particular on Georgia, a concern that I know Mr. Scott shares.

As the financial crisis unfolded over the past 2 years, there are few places in the United States that have not felt its effects, whether in the form of rampant home foreclosures, shuttering of businesses, vacant and abandoned homes, empty commercial buildings and displaced communities of people. The far-reaching turmoil caused by the collapse of the market has changed many communities indelibly and some may never fully recover.

Here in Atlanta, residents experienced a spectacular rise in home values and have watched them fall nearly as dramatically. This phenomenon has occurred in many cities and towns across the country, but as we will hear today, in some neighborhoods in Atlanta, home prices rose even higher and even faster than in cities like Phoenix or Las Vegas. Nationally, the foreclosure rate is four times the historical average and experts predict that 10 to 12 million foreclosures will have occurred before this crisis subsides.

Joblessness nationwide is at a 25-year high. In the Atlanta metropolitan area with a population of over five million people, the unemployment rate is at 10½ percent and 1 in 85 homes are currently in foreclosure. On the commercial side, in 2009 along, there have been 20 bank failures in the State of Georgia. This out of a total of 101 banks that have failed nationwide so far this year.

The severity of the plunge in residential real estate values and the resulting catastrophic impact it has had on residential communities in Atlanta is being matched in some cases by the effects of the commercial real estate collapse that is occurring.

The subcommittee has come to Atlanta today to hear how this has happened in a great city known as the unofficial capital of the South, and to bear witness to the effects on people and communities.

As we will hear today, it was more than just rampant speculation, lax underwriting requirements and weakened anti-predatory lending laws that led to Atlanta's communities being ravaged by this crisis. Because of an unchecked bubble in housing and land prices, residents in very modest, low-income neighborhoods in Atlanta became house rich while being cash poor. Ruthless and largely unregulated predatory lenders saw quick profit in those very neighborhoods, without a shred of concern for the inevitable consequences when the bubble predictably burst. Tomorrow, on the courthouse steps just a few minutes walk from this building, there are over 9,500 foreclosures scheduled for the 13-county Atlanta metropolitan area.

Today, we will hear from witnesses who will tell us how they dealt with the crisis, how it has impacted their communities. Congress enacted a program earlier this year to try to stem the tide of residential foreclosures and we will hear some specifics about how and whether it is working. We will also hear from members of Atlanta's developer community who are struggling to run their small businesses when they can no longer access the capital they need. The administration has tried to address this ongoing problem with specific programs designed to promote small business lending. We will hear from a banking regulator who will provide insight into the guidelines used by regulators to promote the availability of small business and other commercial capital.

Thank you very much. At this time, I recognize Congressman Westmoreland. Again, I want to thank you for the role that you played in bringing this to light.

I am learning this mic system here, so let us see. OK, I think you are all set.

Mr. WESTMORELAND. Thank you, Mr. Chairman. I want to thank you for listening to me over the past months to try to get you to come down here, because this is very important to our State. So I want to thank you for agreeing to hold this important hearing. You and your staff have been great to work with and I appreciate that. I would also like to thank my other colleague from Georgia, David, for being here also.

As a nation, we are currently working our way out of a devastating economic downturn. The collapse of the financial markets sent shock waves throughout our country, bringing every sector of our economy to its knees. This tragedy has destroyed wealth at an unprecedented rate, placing too many Americans into situations that they could never imagine. Nowhere else is this better understood than here in my State of Georgia.

At one time, Georgia was known as the home of Coca-Cola and peanuts. Today, it is known for foreclosures and failing businesses. My home State has the unfortunate distinction of having more bank failures—26—than any other State in the country. With over a quarter of all bank failures nationwide, Georgians have experienced more than their fair share of suffering.

By now we all know how we got here—rapid expansion in the banking industry mixed with cheap credit and the general lack of personal responsibility led to Georgia seeing over 100 new banks open their doors since the year 2000. During this time, only California and Florida surpassed Georgia in the opening of new banks. As the market crashed, many people began to question why the State was in need of so many banks. Was it a risk to the health of the overall financial system for there to be such a concentration of lending institutions in the area? We believe here in Georgia that a community bank makes the best bank.

In the past year, I have spoken with homeowners, car dealers, construction companies and many others. They explain that banks are being put in a position where they are unable to rationally evaluate their real estate loans. Banks are being forced by overzealous regulators to dramatically reduce their real estate exposure. This all too often ends in banks foreclosing on properties and selling them for pennies on the dollar while that hurts all the other values in the neighborhood. While this may reduce the lending institution's real estate portfolio, it does nothing to help our current crisis. In fact, it makes the situation unnecessarily worse by creating free-falling property values at a time when families are in desperate need of financial stability.

As a former home builder, I realize the tremendous negative impact that home foreclosures could have on a community. Decreased property values translate into a loss of tax revenues for communities. Managing the foreclosures also increases a municipality's costs. Numerous foreclosures in a particular community seriously undermine its stability and economic potential. The downward spiral of home prices for homeowners as well as revenue for lenders and local governments demonstrates the far-reaching impact of home foreclosures. Finding a solution to this widespread problem will help banks, homeowners and communities across the Nation emerge successfully from the current economic crisis.

Mr. Chairman, if our nation is going to have a strong financial future, we must learn from the mistakes of the past. It is my fear that we will soon be forced to test our new knowledge, because the threat of a collapse of the commercial real estate market looms over us all. That is why it is imperative that we find a solution to the residential market quickly. If we do not, it will almost be impossible to fight these two different fronts at one time.

Again, Mr. Chairman, I thank you for holding this important hearing and I look forward to hearing from today's witnesses.

Mr. KUCINICH. I thank the gentleman.

Now I want to recognize, for purpose of an opening statement, Congressman Scott, and thank him for his participation. Congressman Scott.

Mr. SCOTT. Thank you very much. This is indeed an honor to be here with my two distinguished colleagues, Chairman Kucinich and Lynn Westmoreland, who do a tremendous job in Washington, DC. Thank you so much for coming and holding this hearing. It is very timely and very important.

Atlanta, Georgia is the epicenter if our financial crisis, let us make no mistake about it. We are here hovering at an unemployment rate of 10½ percent, we have a foreclosure rate of 18 percent, we lead the Nation in bank closures with 30 percent—nearly 30 percent of all the banks that have closed in this nation are here in Georgia. Now something is wrong about these numbers. And there is something that we are not doing that we need to do.

I serve on the Financial Services Committee. I understood going in that we needed to put TARP together to help Wall Street. We heard their voices loud and clear because they needed to unfreeze the credit markets. But the voices we refused to hear when we were in this debate were those struggling homeowners whose homes were being foreclosed on, which was the source of the problem. And as many of you know who followed that, I held up, along with about 20 others and I think Westmoreland was a part of that as well, even moving ahead on TARP. And I said let us put maybe just 2 percent of this $700 billion, it would have been just $14 billion, into something where homeowners could come and get money so they could stay in their homes. And I advocated then what I think we may need to do, particularly here in Atlanta, and that is to put a moratorium—put a freeze on the home foreclosures. And put a freeze on the residential foreclosures——

[Applause.]

Mr. SCOTT [continuing]. Until we can get our hands around this problem. That is exactly what we need to do. So we are here to hear from the people who have to make this work—the bankers, the community activists, our political leaders, people who are grappling with this issue. Atlanta has made its name by being a city too busy to hate. Let us make our name now by being a city that is too busy to foreclose.

Thank you very much.

[Applause.]

Mr. KUCINICH. Thank you very much, Congressman Scott. There are no additional opening statements from Members. The committee will receive testimony from the witnesses who are before us today.

It is going to be my pleasure to introduce the witnesses. I will introduce the witnesses and then we will begin the testimony.

The Honorable Vincent Fort has been representing the 39th District of Georgia, which is located in Fulton County, since 1996. Mr. Fort is also a professor of history and political science, having taught at Morehouse College and Clark-Atlanta University. Welcome.

The Honorable Andrew Young currently serves as chairman of GoodWorks International, LLC, an international consulting firm. Ambassador Young has previously served as mayor of Atlanta, Congressman from Atlanta's 5th District, and U.S. Ambassador to the United Nations. Thank you very much for being here, Ambassador.

Mr. Burt Manning is the chief appraiser for the Fulton County Board of Tax Assessors and was appointed to that position in July 2006. He oversees the preparation of the annual real and personal property tax digest published annually. Thank you, Mr. Manning, for being here.

Mr. Brent Brewer is a homeowner from Atlanta's historic West End neighborhood, is an active member of the zip code 30310 Mortgage Fraud Task Force since 2005. The mission of the task force is to raise public awareness of the proliferation of mortgage fraud and foreclosure in zip code 30310 neighborhoods. Thank you very being here.

Mr. William J. Brennan. Mr. Brennan is the director of the Atlanta Legal Aid Society's Home Defense Project, which provides referrals and legal representation to homeowners who have been victimized by foreclosure "assistance," home equity and home purchase scams. Mr. Brennan has received numerous awards for his work fighting predatory lending practices in Georgia, which he has been doing for over 40 years. Thank you for being here, sir.

Ms. Tia McCoy, welcome, is the manager of the HomeOwnership Center of Resources for Residents and Communities, a non-profit HUD approved Neighbor Works America Community Development Corp. that provides housing development non-profit management and community building.

Mr. Dan Immergluck, thank you for being here. Mr. Immergluck is associate professor of the City and Regional Planning Program at the Georgia Institute of Technology. He has published numerous scholarly works on the subject of real estate finance, community reinvestment, fair lending policy and demographics, among others. Thank you.

Mr. Frank S. Alexander is a professor at Emory University School of Law and founding director for the Center for the Study of Law and Religion. He is also director of the Project on Affordable Housing and Community Development. His work focuses on affordable housing, urban redevelopment and State and local government law. I want to thank you for being here as well, Mr. Alexander.

And again, appreciation to all of the witnesses. We are now at the point in the hearing where we swear in witnesses. Now it is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify and I would ask that you rise and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that each of the witnesses has answered in the affirmative. Thank you, you may be seated.

I am asking that each of the witnesses now give a brief summary of your testimony and to keep this summary under 5 minutes in duration. I want you to bear in mind that your complete written statement will be included in the record of the hearing and that we are going to go over your complete written statement as well as listen carefully to what you are saying now.

So with that, the system here has a green light that you can begin on. You have 1 minute left when the light is red—oh, I have just been corrected. When the light is yellow, you have 1 minute left. So just like everywhere else, do not go through a red light. [Laughter.]

So Jaron is going to keep time and I trust that with your Harvard education, you will be able to do that. [Laughter.]

OK, I am pleased to welcome the Honorable Mr. Fort, if you would begin with your testimony and then we are going to proceed to recognize each and every witness. And at the conclusion of that, we are going to have a period of questioning.

STATEMENTS OF HON. VINCENT FORT, A SENATOR IN CONGRESS FROM THE STATE OF GEORGIA; ANDREW YOUNG, CHAIRMAN, GOODWORKS INTERNATIONAL, LLC; BURT MANNING, CHIEF ASSESSOR, FULTON COUNTY BOARD OF TAX ASSESSORS; BRENT BREWER, 30310 MORTGAGE FRAUD TASK FORCE; WILLIAM J. BRENNAN, DIRECTOR, ATLANTA LEGAL AID SOCIETY'S HOME DEFENSE PROJECT; TIA MCCOY, HOMEOWNERSHIP CENTER MANAGER, RESOURCES FOR RESIDENTS AND COMMUNITIES; DAN IMMERGLUCK, ASSOCIATE PROFESSOR, CITY AND REGIONAL PLANNING PROGRAM, GEORGIA INSTITUTE OF TECHNOLOGY; AND FRANK ALEXANDER, PROFESSOR OF PROPERTY, REAL ESTATE SALES AND FINANCE, STATE AND LOCAL GOVERNMENT LAW AND THEOLOGY, FEDERAL HOUSING POLICIES AND HOMELESSNESS, EMORY UNIVERSITY SCHOOL OF LAW

STATEMENT OF HON. VINCENT FORT

Mr. FORT. Thank you, Mr. Chair, for bringing the subcommittee to Atlanta. We appreciate you for that. It is good to see my good friend, David Scott from Atlanta, we appreciate you and everything you are doing.

Mr. Chair, in my comments, I am going to focus on work that an ad hoc coalition has done over the last 6 months. That coalition is the Atlanta Fighting Foreclosure Coalition. It came together earlier this year as a result of a tidal wave of bank foreclosures occurring in Atlanta. At the same time, banks and other financial institutions that had in fact destroyed the economy and perpetrated predatory lending practices, received hundreds of millions of dollars of Federal bailout. The coalition, the Atlanta Fighting Foreclosure Coalition, is made up of almost 40 civil rights, State, labor and social justice organizations.

The coalition focused its activity on Wells Fargo/Wachovia. Wells Fargo/Wachovia received at least $25 billion in the bailout. Wells Fargo/Wachovia also had an especially pernicious history of predatory lending. And additionally, Wachovia was one of the companies most involved in weakening the Georgia Fair Lending Act in 2003. You will hear more about that from other witnesses, I am sure.

The Money Store and Golden West are two institutions that Wells Fargo/Wachovia bought that were notorious predatory lenders. In addition, we learned that Wachovia was making predatory loans directly in their branches in African-American neighborhoods here in Atlanta. Wells Fargo/Wachovia is being sued in several cities and States, including Baltimore, Cleveland and Illinois. They are being charged with race-based lending practices.

This spring, the coalition began a series of protests at various Wells Fargo/Wachovia locations. Richard Trumka, President of the AFL–CIO, came to Atlanta to show his support. Five members of the coalition, including myself, conducted civil disobedience at a Wells Fargo home finance office and were arrested.

After that series of demonstrations, Wells Fargo/Wachovia put a moratorium in place on 1,400 October foreclosures. Unfortunately, they have refused to extend their moratorium for the next 6 months as demanded by the coalition. Also, it appears that the loan modification protocol that Wells Fargo/Wachovia is using does not differ substantially from that which has failed in the industry over the last 2 years. The best research shows that loan modification using the Wells Fargo/Wachovia criteria results in payments staying the same in 50 percent of the cases and actually the payments going up in 25 percent of the cases.

The most important thing, in my estimation, that this committee can do is the following:

One, work to create a best practices loan modification process which banks receiving TARP money would be required to follow. That best practices loan modification process should include at least these four things: 1. Decreasing the principal loan balance to make loans affordable. That is particularly important when home values are going down. We have, I believe the number is one out of every three loan mortgages in this country are upside down. The homeowner owes more on the loan than the house is worth, therefore, if you do not decrease the principal loan balance, you really are not helping the homeowner to the fullest extent. 2. Lower the interest rate to make loans affordable. 3. Convert adjustable rates to fixed rates and then finally, very important, because none of the loan modification protocols that have been put together in the last couple of years from Hope Now Alliance to Hope Now for Homeowners to the President's plan have included using reverse mortgages with short payoffs for senior citizens—absolutely critical when you have a senior in this situation where they are about to be foreclosed on, in an emergency, the use of good reverse mortgages. This is not a silver bullet, but it goes a long way toward helping seniors.

The second thing that needs to be done is we need to pass a Federal law to stop predatory lending. I am very disappointed that has not progressed further over the last 3 years. The inclusion of assignee liabilities is essential in any such law.

And then three, I would hope that Congress would call for a civil rights investigation on the discriminatory practices of the major banks and other banks—Wells Fargo/Wachovia, Bank of America and Citigroup.

Finally, Mr. Chair, I would just say that I am skeptical about giving more banks more bailout money without commitment to stop their bad lending practices and speculation. One of the concerns that I had about during the time when the TARP legislation was being discussed is that there was not a commitment received from the banks to stop these bad lending practices. So they got a blank check and the lending practices, they have not modified or changed their lending practices and so I would be skeptical about giving more money to more banks when they do not make commitments to the homeowners we are all concerned about.

Thank you, Mr. Chair.

[Applause.]

Mr. KUCINICH. Thank you. I thank the gentleman.

I just want to comment parenthetically, that is one of the reasons why some of us did vote against the bill.

Mr. FORT. Yes, sir.

Mr. KUCINICH. The Chair recognizes the distinguished Ambassador, Ambassador Young.

[The prepared statement of Hon. Vincent Fort follows:]

Statement
Of
Vincent D. Fort
Georgia State Senator
District 39

Domestic Policy Committee Field Hearing
Monday, November 2, 2009
11:30 a.m.

Committee Room 450 of the Georgia State Capitol Building
206 Washington Street Southwest
Atlanta Georgia

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

The Atlanta Fighting Foreclosures Coalition came together earlier this year as a result of the tidal wave of bank foreclosures occurring in Atlanta. At the same time banks and other financial institutions that had destroyed the economy and perpetrated predatory lending received hundreds of billions of federal bail-out dollars. The Coalition is made up of almost forty civil rights, faith, labor, and social justice organizations.

The Coalition had focused Wells Fargo/Wachovia. Wells Fargo/Wachovia received at least 25 billion dollars in the bail-out. Wells Fargo/Wachovia also had an especially pernicious history of predatory lending. Wachovia was one of the companies most involved in weakening the Georgia Fair Lending Act in 2003. The Money Store and Golden West are two institutions that Wells Fargo/Wachovia bought that were notorious predatory lenders. In addition, we learned that Wachovia was making predatory loans directly in their branches in African-American neighborhoods here in Atlanta.

Wells Fargo/Wachovia is being sued in several cities and states including Baltimore, Cleveland, and Illinois. They are being charged with race based lending practices.

This spring the Coalition began a series of protests at various Wells Fargo/Wachovia locations. Richard Trumka, president of the AFL-CIO came to Atlanta to show his support. This summer, five members of the Coalition including myself conducted civil disobedience at a Wells Fargo Home Finance office and were arrested.

After that series of demonstrations, Wells Fargo/Wachovia put a moratorium in place on 1400 October foreclosures. Unfortunately, Wells Fargo/Wachovia has refused to extend its moratorium for the next six months as demanded by the Coalition. Also, it appears that the loan modification protocol the Wells Fargo/Wachovia is using does not differ substantially from that which has failed in the industry. The best research shows that loan medications using the Wells Fargo/Wachovia criteria result in payments staying the same in fifty-per cent of cases and, actually, going up in twenty-five per cent of cases!

The most important thing that this committee could do is the following:

1. Work to create a best practices loan modification process which includes
   a. Decreasing the principal loan balance to make loans affordable
   b. Lowering the interest rate to make loans affordable
   c. Converting adjustable rates to fixed rates
   d. Using reverse mortgages with short payoffs for senior citizens

2. Pass a federal law to stop predatory lending. The inclusion of assignee liability is essential in any such law. I am especially concerned that an anti-predatory legislation in Congress has not progressed further than it has in the last three years.

3. Call for a civil rights investigation on the discriminatory practices of Wells Fargo/Wachovia, Bank of America, and Citigroup.

Finally, I am skeptical about giving more bail-out money to more banks without commitments to stop the bad lending and speculation that created the crisis we are in.

STATEMENT OF ANDREW YOUNG

Mr. YOUNG. Mr. Chairman, I thank you for giving me this opportunity.

I come here as a former member of the Banking Committee when I think this crime began. I was elected to Congress in 1973 and we were on the end of really the most stable period of the global economy. From 1944 roughly to 1974, you had a global economy anchored to gold and doing very well for everybody, because we thought it through and organized it.

In 1973, in the Banking Committee, we suddenly ended the gold standard, broke up the Breton-Woods Agreements and allowed the dollar to float. The thing about that was that nobody asked any questions. And I was the last member of the committee and always committed to ask dumb questions, and I said, "If the dollar is not anchored by something, won't people play politics with the dollar?" Arthur Burns took a puff on his pipe and said, "Young man, you will soon learn the dollar doesn't need you to protect it." Well, that shut me up. [Laughter.]

But it sparked my mind to figure out what was going on, because I thought the Congress had made a decision that they did not understand. Now normally, we would go back and revisit that. But Watergate broke a couple of weeks after that. Twenty-five years later, Paul Volcker, who was there with Arthur Burns and George Shultz, wrote a book saying that he and Arthur Burns and George Shultz had not discussed this question before they came over to testify before the House Banking Committee. That they got word from the White House that they were to testify to this effect.

Now that bothers me because nobody understood what was going on, not even the people who were testifying. And we never went back to look at it. Now I think the effects of that were that we shifted from an economics that had been thought through for years in the Second World War by John Maynard Keynes. We suddenly made a switch to the economics of Milton Friedman.

Now I am not an economist, I am a preacher. But I went back and tried to figure this out and I cannot figure out why we were doing all of this. But that Friedman economics launched us into a period of systematic deregulation at a time when the economy was being increasingly globalized. The price of oil at that time was $3 a barrel. In 6 months, it was $30.00 a barrel, in 10 months, it was $50 a barrel. And we have been on an economic roller coaster ever since, that I think the Congress put us in.

Now we then went through a period of change in the Congress when we repealed Regulation Q, which separated the savings and loans from the commercial banks. When savings and loans were handling housing, they knew the people they were lending to. When you broke that up, you suddenly had commercial banks putting together securitized mortgage packages that they did not know what they were doing. Not only did the savings and loans go under, but when the savings and loans went under, the Federal Deposit Insurance Corp. drew this line in the sand so that they had no flexibility in dealing with community banks.

I am saying, Mr. Chairman, that the Congress helped get us into this situation. And I would hope that your committee on reform would take a good look at this all the way back from the beginning of this crime scene and help us solve some of these broader economic problems.

In spite of all that you hear, Georgia is a very healthy economy. These banks are relating to small businesses and farmers; yes, they were extended by values, but many of them are not predatory lenders, many of them are community banks serving their communities very well. And our communities are thriving. Look at our airport, we have almost 3,000 flights a day coming in here. Atlanta has grown from about two million when I was mayor, in the metropolitan area; as of the other day we had 5,595,000 people coming in here. We will be six million people before long. So this is not a sick community.

And given a little time and a little flexibility, I think a lot of the good people who are running our small banks would be able to work these problems out without handicap. If you close these banks because of an academic or theoretical reason, by and large, you are throwing the country in more debt and you are throwing people in more debt, and there are no winners if we keep on going the way we are going now.

But thank you, Mr. Chairman, I think you can make us all winners and we can find a win-win solution to this.

Mr. KUCINICH. Thank you very much, Ambassador Young.

[Applause.]

Mr. KUCINICH. The Chair recognizes Mr. Manning. I think you can use that mic to your left, Mr. Manning.

STATEMENT OF BURT MANNING

Mr. MANNING. Certainly, sir.

I am humbled to be here. Is it possible to put up a brief PowerPoint presentation that would show some slides that I think would make the few comments that I have meaningful?

[Brief pause.]

Mr. MANNING. As I stated earlier, I am humbled and honored to be here and be part of the program. I must say if I had done a more in-depth presentation, I would have probably wanted to copy some of the things you three Congressmen said to start with, some of the things that Senator Fort has said over the years and down at the end of the table when we get to it, Professor Immergluck, because one of the things that——

Mr. KUCINICH. How are we doing there?

Mr. MANNING. You have packages and I just wanted——

Mr. KUCINICH. Let us just wait a second and see if we can get this up. If we cannot, you know——

Mr. MANNING. It would help, sir.

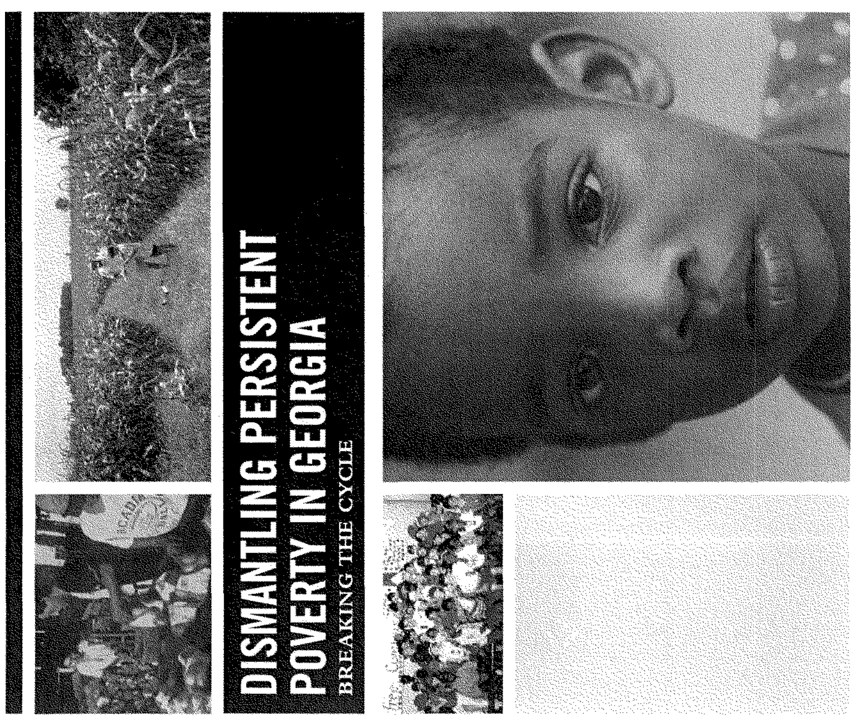
Mr. KUCINICH. We are going to hold the clock. Can we get this working? And if not, maybe you could just give a summary of what the slide show represents. We will give it a try.

[Brief pause.]

Mr. YOUNG. Mr. Chairman, while we are waiting, I have a letter from our mayor pertaining to this and a report by the Carl Vinson Institute on Dismantling Persistent Poverty in Georgia that I would like to submit for the record.

Mr. KUCINICH. Gladly receive it. Without objection, it will be entered into the record. Thank you very much.

[The information referred to follows:]


DISMANTLING PERSISTENT
POVERTY IN GEORGIA
BREAKING THE CYCLE

The University of Georgia

Carl Vinson Institute of Government

April 2003

On behalf of our entire project team, we are pleased to transmit our Georgia report from the Study on Persistent Poverty in the South. The Southeast Region report was released in December 2002, under the title **It's a Matter of Wealth: Dismantling Persistent Poverty in the Southeastern United States.** *As a follow-up to that publication, this report focuses on specific issues related to the 91-county region of persistent poverty in Georgia and incorporates research commissioned by the Georgia Rural Development Council.*

A sense of urgency for breaking the cycle of persistent poverty in Georgia has become increasingly evident. It is vital to the quality of life for those living in the impoverished region. It is vital to the economic well-being of our entire state. And it is vital to the generations of Georgians yet to come.

A close look at the health of our economy and the human capital throughout the state suggests a distinction between those areas that have been more prosperous and those that continue to struggle. This report proposes specific recommendations for developing a strategy to adjust this imbalance and increase capacity for economic and human capital development within the persistent poverty region.

We would like to extend a warm note of thanks and appreciation to Benjy Griffith for his financial donation and continuing support throughout the study. We are most appreciative of the ground work for this study that was completed for the Southeast Region report by the entire research team and would like to thank those who played a pivotal role in the Georgia analysis: John McKissick, David Lynn, and Mick Ragsdale from the University of Georgia and Matt Bishop from the Georgia Rural Development Council.

We hope that we have contributed to your understanding of the needs of the many impoverished families in our region.

Arthur N. Dunning Vice President for Public Service and Outreach, and Associate Provost	**James G. Ledbetter** Director, Carl Vinson Institute of Government	**Joseph Whorton** Executive Director, Georgia Rural Development Council

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PERSISTENT POVERTY IN THE SOUTHEAST REGION

It is no secret that the southeastern United States has been plagued by unusually high rates of poverty for many years. The extent of persistent poverty in this region and its impact on education levels, economic conditions, and quality of life have been the subject of many studies and much political debate.

One of the more recent studies, conducted during the 1990s by Ron Wimberley and Libby Morris, defined the region as a crescent-shaped area of 623 counties in 11 southern states where 34% of the nation's poor reside. This region has been commonly referred to as the Black Belt, a term made well known in 1901 by Booker T. Washington to describe the color of the rich southern soil on which slaves worked.[1]

Various federal initiatives have been established to help direct funds into this region for economic and human development. The Appalachian Regional Commission (ARC) was created in 1965 and over time has shown a positive impact on the region served. Since 2000, the Delta Regional Authority (DRA) has been serving counties in the Mississippi Delta. Beyond these initiatives, however, continuing pockets of poverty exist and signal an unsolved mystery: *Why does this poverty persist and what can be done to break the cycle?*

Senator Zell Miller (D-GA) secured federal funds in fall 2001 to attempt to unravel this puzzle. A generous match by Macon businessman Benjy Griffith enabled the University of Georgia to study two issues in the historic cotton-growing area.

Is there a region of persistent poverty in the Southeast composed of rural counties that are not served by other federal commissions or special initiatives?

Is there a need for a federal initiative in the study area and, if so, what is an appropriate structure?

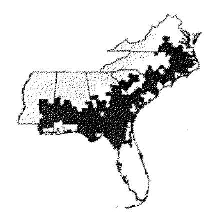


FIGURE 1: PROPOSED REGION OF PERSISTENT POVERTY IN THE SOUTHEAST (PHASE I)

Phase 1 Counties

Mississippi Delta Regional Authority

Appalachian Regional Commission Counties

We published the report of this study in December 2002, under the title *Dismantling Persistent Poverty in the Southeastern United States: It's a Matter of Wealth.* The data clearly showed that "there is indeed a Southeast Region with persistent poverty over three census periods–and it is the poorest of all regions of the country."[2] Encompassing 7.5 million men, women, and children living in 242 counties, the region (see Figure 1) is in dire economic straits and lags behind other regions on a variety of sociodemographic fronts–education, health, employment, and housing.[3]

The report concludes:

> *The economic peril facing the Southeast Region results from, and in turn contributes to, the widespread and persistent nature of the region's poverty. It not only affects those living in the region but also drains the economic health of our entire nation. The basic engine for creating wealth in the region is disadvantaged when compared with other economic regions and the nation as a whole. The economy of the rural South is at risk because it lacks an able workforce and the tools with which to build wealth. This situation will continue to worsen unless and until the region gains the innate ability to produce and sustain wealth through the creation of goods and services in manufacturing, service, and/or agriculture. . . . A federal commission could provide the leadership and coordination to unleash the region's potential and generate long-lasting wealth.*

The State of Georgia lies at the geographic heart of this Southeast Region. A closer look at the state-specific data from the Southeast Region study reveals a unique picture of persistent poverty in our own backyard, a picture that confirms previous research commissioned by the Georgia Rural Development Council.

This report offers an assessment of the challenges of persistent poverty in Georgia and the initiatives that offer glimmers of hope. Strategic recommendations are also proposed for assuring a robust economy and vibrant quality of life for all Georgians.

A SPOTLIGHT ON GEORGIA

RECENT TRENDS DEPICT A GEORGIA WITH MUCH TO CELEBRATE.

We are an increasingly popular place to live. Georgia's population has grown 137% since 1950, and 26% since 1990.[4] At the current rate, our population will exceed 10 million by 2010. About 26% of these residents live in urban areas, a rate that has also been increasing over time.

We are an attractive tourist stop, boasting 45 state parks, 18 historic sites, and many other amenities from the North Georgia mountains to the Georgia coastline.[5]

We are a strong agricultural state, ranking #1 in the nation in production of peanuts, rye, pecans, broilers, and eggs. In 2001, this primary industry accounted for $8.7 billion in total farmgate revenue.[6]

Our economy is diverse, composed of multiple sectors including manufacturing, services, agriculture, retail trade, mining, utilities, and government. With a total economic output of $470 billion in 2000, the top industry employers were services (34.7%), retail trade (18.7%), and manufacturing (15.3%).[7]

We enjoy a large non-profit community. Over 17,000 non-profit organizations, with over $19 billion in annual revenues, are located in Georgia to serve an array of social, human, economic, and cultural needs.[8] They include educational institutions, shelters, hospitals, day care centers, environmental groups, schools, research centers, museums, youth centers, and churches.

We support ongoing workforce development. Nearly half a million Georgians are enrolled in the state's 35 technical colleges and 34 university system schools, helping to produce a skilled and able workforce.[9] Expansion Management Magazine ranked Georgia's industry-specific QuickStart Program the nation's leading workforce training program.

We are a widely recognized transportation hub for the Southeast. The city of Atlanta and the coastal ports, along with a well-developed intrastate transportation system, offer ease of access for shipment of goods and services anywhere in the world.

UNFORTUNATELY, THIS PROSPERITY IS LIMITED.

While some parts of the State have been extraordinarily vibrant, others have lagged behind. Of particular note is metropolitan Atlanta, which has attracted an educated workforce, experienced exponential growth, invested in a world-class airport, and capitalized on a host of other amenities. Analysis of the flow of economic benefits in Georgia indicates that development in rural Georgia adds positively to the economy of metro Atlanta; however, the reverse is typically not the case.

A BACKDROP OF LARGER SOCIETAL SHIFTS PRESENTS ADDITIONAL CHALLENGES.

Globalization of the economy. Goods and services previously concentrated in Georgia are increasingly

The growth of wealth in this major metropolitan area has not "spilled over" into the rest of the state in any significant way. Yet, because a significant portion of metro Atlanta's economy is dependent on a prosperous rural Georgia, the interdependence between these regions is apparent. Perhaps the realization that Atlanta needs rural Georgia and rural Georgia needs Atlanta will facilitate progress in both areas.

being produced and marketed overseas. Decisions once made locally must now consider national and international factors and adjust to their implications.

Changing demographics. Immigration of significant numbers of Hispanics and an increasingly older workforce population contribute to a more diverse, yet a more complex, society.

Technology explosion. The rapid pace of new technological developments continues, changing the flavor of the jobs and the skill set required. With new technology, many occupations, such as farming, now require less physical labor–forcing many to find work in areas where enhanced skills are mandatory.

Pockets of poverty thus remain–and will continue to exist unless appropriate policies and programs are instituted. New, fresh approaches are needed to examine the nature and extent of persistent poverty in Georgia and to generate effective solutions. With this perspective, we used the same definitions and methodology as the study of persistent poverty in the Southeast to identify the counties in Georgia that meet the definition of persistent poverty (Figure 2).

Of the 242 counties in the Southeast Region of persistent poverty, 91 (or 38%) are in Georgia.

Eighty-four of the counties are non-metropolitan and commonly characterized as rural.

Nearly one-fourth (or 24%) of the population living in the Southeast Region of persistent poverty reside in Georgia, and slightly more than one-fourth (25%) of the total number of poor people living in this region call Georgia their home. A total of 1.8 million Georgians live in the 91 counties of persistent poverty, or 22% of the state's total population.

Currently, the majority of the population in the 91 persistent poverty counties is White (61.3%). More than one-third (36.1%) is African-American, and another 3.4% is Hispanic American.[10] However, this racial/ethnic composition is shifting rapidly throughout the state. From 1990 to 2000, the Hispanic population in Georgia grew faster than any other racial group. Thirty counties experienced Hispanic growth rates of 500% or more, and 16 of those 30 counties are located within the persistent poverty region. During the same time period, five counties within the persistent poverty region had African-American growth rates greater than the rate for the State as a whole (34.7%). In contrast, 21 counties in the persistent poverty region experienced a decline in the percentage of White residents.[11]

FIGURE 2: PERSISTENT POVERTY COUNTIES IN GEORGIA

Appalachian Regional Commission Counties

Persistent Poverty Counties

Nearly one in three of the 242 counties in the Southeast Region of persistent poverty is in Georgia.

STUDY OF PERSISTENT POVERTY

DEFINITIONS.

Poverty: A single person living alone with an income less than $8,667 in 1999; or a family of four with a 1999 income less than $17,029.[12]

A poor county: A county in which a high percentage of residents (both individuals and/or families) live in poverty.

A county with persistent poverty: A poor county in which a high proportion of its residents remain in poverty over a long period of time, which for our purposes was from 1980 to 2000.

METHODOLOGY.

We identified the poorest counties in the year 2000 and then tried to discern which of them were also severely impoverished in 1980 and/or 1990. We began by using 2000 Census data to calculate the percentage of the population living in poverty in each of the nation's 3,141 counties. Next, we ranked the counties by their levels of poverty, listing them from the highest percent of the population in poverty to the lowest. The ranked list was then divided into four groups of equal size (called quartiles); each group (or quartile) contained roughly 785 counties. The top quartile included the counties with the highest levels of poverty; the second quartile represented the counties with the second highest levels, and so on.

Repeating this process two more times using the 1980 and 1990 Census data, we were able to identify those counties that were in the top two quartiles of poverty across three census periods.[13]

Thus, the region of persistent poverty comprised nonmetropolitan counties that were

- *In the top two quartiles of poverty during 2000 AND during 1980 and/or 1990;*
- *Not part of the Appalachian Regional Commission or Delta Regional Authority; and*
- *Connected to the contiguous set of persistent poverty counties most typical of the historic Black Belt.*

Selected metropolitan counties that we expected to lack some of the same resources as neighboring rural counties were included as well.[14]

THE HUMAN COST OF POVERTY

THE TOLL OF PERSISTENT POVERTY IN GEORGIA ON HUMAN VITALITY AND QUALITY OF LIFE CANNOT BE UNDERESTIMATED. THE BURDEN FALLS DISPROPORTIONATELY ON CHILDREN AND THE ELDERLY LIVING IN THE 91-COUNTY REGION; MORE THAN 1 IN 4 RESIDENTS UNDER THE AGE OF 18, AND NEARLY 1 IN 5 OVER THE AGE OF 65 LIVE IN POVERTY.[15]

A few key indicators show clear evidence of the region's compromised social condition.

Low birth weight. The average rate of low birth weight babies per 1,000 births from 1996 to 1998 was 12% higher in the persistent poverty region than the rate for Georgia (96.5 vs. 86.2).[16]

Education. The percent of persons age 25 and older without a high school diploma in the region (29.5%) is 38% higher than the percent for the state (21.4%).[17]

Adult vitality. Eighty-four of the 91 persistent poverty counties (92%) are classified as average, weak, or distressed by the Georgia Rural Development Council's Human Capital Vitality Index for Adults.[18] None are classified as vibrant, and only 7 counties are classified as strong (Figure 3). Thus, many counties in the region of persistent poverty may be characterized by disproportionately high rates of adult crime, low literacy, poor health status, and high food stamp participation.

Vitality for children and youth. Most (75%) of Georgia's weak or distressed counties as classified on the Georgia Rural Development Council's Human Capital Vitality Index for Youth and Children[19] are located in the persistent poverty region (Figure 4). Thus, many counties in the region of persistent poverty may be characterized by disproportionately high rates of juvenile arrests, high school dropouts, child mortality, and teen pregnancy.

A complete comparison of demographic, social and economic characteristics can be found on page 16.

These data speak to both the current compromised quality of life in the persistent poverty region, as well as the grim prognosis for the next generation.

The vitality of Georgia is sapped by persistent poverty.

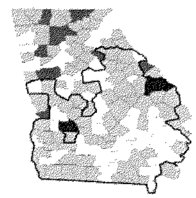


FIGURE 3: HUMAN CAPITAL VITALITY INDEX, RELATIVE COMPOSITE CONDITIONS FOR ADULTS

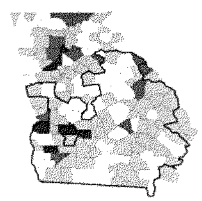


FIGURE 4: HUMAN CAPITAL VITALITY INDEX, RELATIVE COMPOSITE CONDITIONS FOR YOUTH AND CHILDREN

THE ECONOMIC IMPACT

To better understand the consequences of persistent poverty, we examined the economic structure and competitiveness of Georgia's persistent poverty counties relative to the counties in the state that have not experienced persistent poverty. In comparing the 91-county persistent poverty region (PPR) to counties in the state not marked by persistent poverty (non-PPR), we discovered that the PPR counties

- *Produce less goods and services in total and per person*
- *Have a lower output of goods and services*
- *Are more dependent on low-wage manufacturing than non-PPR counties for economic output and employment*
- *Have less diversity in the types of industry available*
- *Have a low value per acre of agriculture*
- *Are more dependent on government and dividends for household income, while their household income is lower than non-PPR counties.*

Analysis of disparities between PPR counties and the state as a whole are also compelling, particularly in terms of income and unemployment levels. The per capita income in the 91-county persistent poverty region is more than $5,500 lower than the average in the entire state of Georgia. At the same time, the impoverished region's unemployment rate is 29% higher than the rate for the state (7.1% vs. 5.5%).[20]

These findings confirm complementary research sponsored by the Georgia Rural Development Council. This research evaluated the economic conditions in the 91-county persistent poverty region using three key measures of economic health.

Output. Total economic output for the 91-county region is $74.7 billion–nearly 16% of Georgia's total output of $470.0 billion. Manufacturing is the poverty region's primary economic engine, producing 35.6% of total economic output; agriculture, government, mining, services, trade, utilities, and other engines combine to produce the remaining 64.4%. Agriculture is the main economic engine in 53 counties, 44 (83%) of which are in the poverty region (Figure 5).

Economic vitality. Every county classified as declining rural or lagging rural on the Georgia Rural Development Council's Economic Vitality Index[21] (54 counties) is located within the persistent poverty region of Georgia. Of the state's 16 rapidly developing counties, none are located in the persistent poverty region; and only five of the state's 91 persistent poverty counties are considered developing on the Index (Figure 6).

Fiscal capacity. The relative income generating potential of counties is an indicator of how well they are able to raise sufficient revenues for needs related to basic education and social services. In Georgia, the top tier of fiscal capacity includes those counties with an index score of 111% or better.[22] Fourteen counties in Georgia are in that top tier. Of those 14 counties, only four are located within the 91-county persistent poverty region. The two bottom tiers of fiscal capacity in Georgia include those counties with an index score of 75% or worse. Sixty-one (61) of Georgia's 159 counties fall in the two bottom tiers of fiscal capacity. Of those 61, the majority (46 counties or 75.4%) is located within the 91-county persistent poverty region (Figure 7).

The production of goods and services per worker is lower in the PPR than in the non-PPR, thus giving the non-PPR a competitive edge over the PPR. The productive capacity of goods and services underlies the creation of wealth. Creation of wealth will be necessary in the PPR if persistent poverty is to be eliminated.

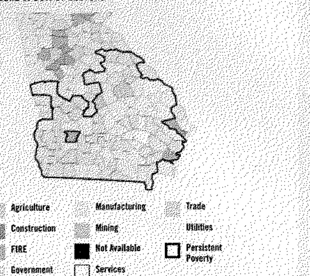
It is natural to ask what would be gained if we "fix" the problem of persistent poverty in Georgia. To answer this question, we estimated the return–or financial gain–to both households and the government that could be expected from a successful effort to eliminate the output gaps between the 91 counties in the PPR region and the rest of the state (the non-PPR counties).

If the economic gaps between the non-PPR and PPR were eliminated in the service sector alone, the PPR region would

- *Enjoy additional income of $18 billion.*
- *Boast 389,000 additional jobs.*
- *Return $1.5 billion to government coffers–$692 million to state and local governments and an additional $809 million to the federal treasury.*

These gains (or "opportunity costs") are even more impressive if we could close the gap in each of the most disadvantaged sectors as well–trade, FIRE (Finance, Insurance, and Real Estate), and services. In this case, employment would increase by 856,000 jobs and $5 billion would be returned to the public sector for reallocation to other priority investments.

FIGURE 5: OUTPUT SECTORS



It has become increasingly clear through various economic measures that the persistent poverty region is disproportionately disadvantaged.

FIGURE 6: ECONOMIC VITALITY

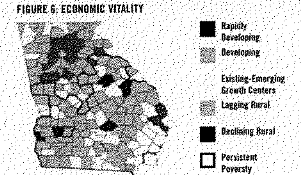
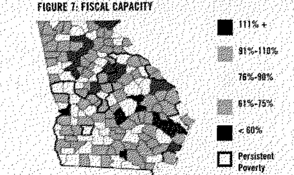


FIGURE 7: FISCAL CAPACITY



POSITIVE DIRECTIONS

Within the 91-county persistent poverty region of Georgia, there are several rural communities that display leadership for improving the vitality of economic and human capital development efforts. All of the counties share a sizable growth in population from 1980 to 2000, and at least a 15% increase in per capita income from 1995 to 2000.[23] The downtown areas in the main cities of many of these counties are recognized nationally as Main Street cities and have received technical assistance and resources to build a stronger local economy. Furthermore, the percent of high school graduates

in each county is above the state average.[24] Although many counties fall below the state average on other indicators relating to the conditions of children and families, Family Connection Partnership collaboratives are working in each county to seek improvements in areas of need.

Douglas/Coffee County has provided extensive leadership and local commitment for development along US Highway 441, including efforts to attract a Wal-Mart Distribution Center. The county has received a South Georgia EXCEL (Early Learning Opportunities Act) Grant and implements a Girl Power Program for high-risk girls ages 9-15.

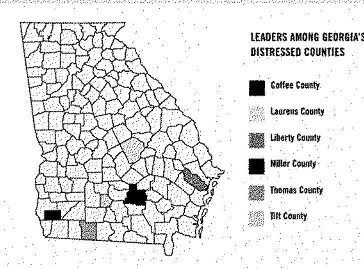
Dublin/Laurens County serves as a regional center for education and training through several institutions–including satellite campuses for University of Georgia, Middle Georgia College, and Georgia Southern University as well as the Heart of Georgia Technical College whose campus contains the DuBose Porter Business and Industry Training Center. The county built a welcome center along I-16 to increase tourism. Bank of America and the United Way provide funds for a "Success by 6 Initiative" to ensure that all children reach school age healthy, well-nurtured, and ready to succeed.

Hinesville/Liberty County, home of the Fort Stewart military installation–a primary economic engine in the county–implemented aggressive efforts to increase housing for retaining retired military personnel. The county has shown impeccable local government leadership and management working in concert with the military base and boasts a high school dropout rate below the state average. Literacy is promoted through a Georgia Reads grant, and the Family Connection collaborative also has an affiliate program entitled Pathways to Success focused on life skill enrichment and prevention.

Colquitt/Miller County initiated extensive downtown development and historic preservation efforts with the Tarter Inn, Cotton Hall, and the entire town square is listed on the National Historic Register. In addition, Colquitt has been recognized as a Better Hometown Community, Georgia's small town equivalent to a Main Street City. The county also exhibits a strong community vision and commitment to rural arts and culture, as exemplified by its production of Swamp Gravy, the "Official Folk Life Play of Georgia," which has received national attention.

Thomasville/Thomas County is a leader in agri-business development through the GENESIS Food Park, a restored manufacturing building that now houses a vegetable processing plant serving several counties. With Thomasville's downtown area generally known as the retail hub for parts of southwest Georgia and north Florida, the city recently partnered with Flowers Industries to relocate over 100 jobs to the historic JC Penney's building. The county has shown great foresight by incorporating technological innovation and providing high-speed Internet service.

Tifton/Tift County is Georgia's center for farm experimentation and agricultural education, and houses the Agrirama, University of Georgia Rural Development Center, and Abraham Baldwin Agricultural College. In response to their human capital development efforts for youth and children, Tifton has distinguished itself as the "Reading Capital of the World."



Locally-initiated community economic development offers a ray of hope for breaking the cycle of persistent poverty.

IMPEDIMENTS TO BUILDING WEALTH

THE HUMAN AND ECONOMIC REALITIES OF PERSISTENT POVERTY IN GEORGIA POSE MAJOR CHALLENGES TO BUILDING WEALTH. WHILE SEVERAL COUNTIES HAVE TAKEN BOLD STEPS TO ADDRESS PERSISTENT POVERTY, WE STILL HAVE 91 COUNTIES WHOSE POVERTY RATES HAVE BEEN AMONG THE WORST IN THE NATION OVER THE LAST THREE CENSUS PERIODS. THESE COUNTIES SHARE SEVERAL CHARACTERISTICS WORTHY OF NOTE.

Poor return on state investments. Georgia has experienced a lower return than expected on investments. In particular, the state's investment strategies, including incentives for rural Georgia, have not produced the anticipated increase in wealth in rural Georgia.

Inadequate job opportunities. Low wage manufacturing is not the answer for building wealth. The growth in manufacturing jobs has produced low wage and low skill opportunities. The manufacturing sector provides the largest percentage of output in both PPR and non-PPR counties, but PPR counties have a significantly lower output per capita and per square mile. Interestingly, food processing is the largest manufacturing industry in both the PPR and non-PPR but does not appear to benefit the economies of each region in the same way.

Barriers to workforce development. Georgia's workforce is not competitive. One factor is the low education levels found among working adults in PPR counties. Compounding this is the loss of population or slow growth in the region, undermining support for a strong work force and the ability to attract high paying jobs.

Housing shortages. Mobile homes are far too common in the PPR and skilled labor to build adequate, safe housing is in short supply.

Lack of economic flexibility. Georgia's economic capacity and diversity are not sufficiently developed in the PPR to respond to shifts in economic needs and conditions. The state's economy is not sophisticated enough, for example, to absorb major job losses like the shifts in the textile industry without serious consequences.

Limitations linked with persistent poverty. Areas dominated by persistent poverty traditionally do not attract new industry, place less emphasis on school and healthcare systems, and have a limited tax capacity to pay for services.

There are no easy answers. Moving away from the policies of the past that led to dependency and failed to build wealth in individuals and in the community will require an openness to new ideas and new approaches. Most of all, it will require the coordinated efforts of the government, community, and private sector. Needed improvements in education, health status, housing, and workforce participation must be seen as the responsibility of all and cannot be delegated to any one agency or level of government.

LAYING A FOUNDATION

THE FINDINGS FROM THE STUDY ON PERSISTENT POVERTY IN THE SOUTH AUGMENT SEVERAL RECOMMENDATIONS FOR BREAKING THE CYCLE OF POVERTY THAT HAVE BEEN PRESENTED IN PREVIOUS REPORTS.

These include the State of Rural Georgia Report published by the Georgia Rural Development Council, and multiple publications by the Southern Growth Policy Board. Together they serve to provide a coherent strategy that, if supported with strong and sustained leadership over time, can indeed foster meaningful change.[25, 26, 27]

Many of the recommendations speak to the need for a shift from industrial development to community development. The key components of that strategy are outlined below.

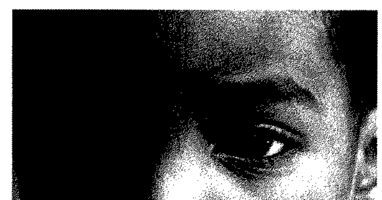
Partner with local leadership. Local leadership must be an active and committed participant in the development process. Without the commitment and initiative of local leaders, the state's return on investment in rural communities has been, and will continue to be, minimal.

Involve local community residents. The needs and concerns of those living in persistent poverty throughout Georgia must be recognized as policies are developed to address the issues at hand. Local leadership needs to ensure that the views of residents remain represented at the state level.

Begin with building a workforce capable of competing for quality jobs. A competitive workforce rests at the heart of all successful development efforts. Garnering the resources and sustaining the commitment to improving educational attainment means involvement of the entire community. A stronger workforce is important for discouraging businesses in Georgia from importing workers from outside the state.

Maximize and measure return on investment. Many of Georgia's most distressed communities have received significant state assistance yet continue to lag in social and economic indicators. Investment must focus on achieving results. Enhancing return on investment will require setting both short- and long-term benchmarks, greater coordination among

Poverty continues to take its toll and will not abate on its own.



investment partners, and a realistic assessment of communities' capacity for development.

Leverage private sector investment. As state partners and investors in rural Georgia, local private sector participation is essential for achieving results and accomplishing community and regional social, community and economic development goals.

Empower regional entities to design and implement regional development objectives. Long-range development goals and challenges cross jurisdictional boundaries and require regional cooperation. Allocation of scarce resources should

be directed toward regionally developed solutions sponsored by multi-jurisdictional entities and authorities. Regional growth must be based on natural markets and a critical mass of the population. Success will not occur if support for only county-by-county efforts is continued.

Reexamine economic growth policy and state reinvestment practices. Less emphasis should be placed on competing for low-wage manufacturing jobs that seem to perpetuate persistent poverty throughout the state. Instead, more diverse job opportunities should be identified that will boost family income levels. In addition, policies should place first priority on the retention and expansion of existing jobs in the state before investing in attracting new jobs.

Fine-tune investments to adjust for readiness. There are various stages in the economic development process. Some rural communities are not in a position to attract large employers, regardless of the incentives offered. Many require assistance in completing key infrastructure projects and workforce training. Investments in rural areas must follow assessments of community readiness and respond with resources for services and financing according to specific needs.

Focus investments to capitalize on local assets. Communities have a variety of strengths and weaknesses that shape their development efforts. State assistance, limited by uniform rules and federal regulations, often fails to capitalize on unique, non-traditional approaches for development and local innovation. Assistance programs for rural communities should recognize regional and local differences and be adaptable to a variety of obstacles and opportunities instead of using a one-size-fits-all approach. Again, the need to combine efforts of counties may be important to address in policies designed to maximize the development of local assets.

Ensure coordination among all government entities and maximize utilization of existing resources. Common development policies and objectives that cut across agencies and programs are needed to facilitate investment in rural Georgia. Currently, communities must adjust development approaches to accommodate the varying objectives, requirements, and funding cycles of direct assistance programs. Common targets and greater coordination among state agencies to address the comprehensive, multi faceted set of development opportunities and challenges facing rural communities would enhance development efforts in rural Georgia.

CONCLUSION

What Georgia most lacks is a coherent, comprehensive strategy that responds to current conditions in our poverty counties, accommodates broader social and economic trends, and champions public policies that will break the cycle of poverty once and for all. State and local leaders can and must work together to design a systematic strategy that builds on the solid foundation that already exists and facilitates a systematic shift from industrial development to community development. Georgia's strategy must be consistent with and supportive of any federal initiative designed to address persistent poverty in the South. Further delay will only further exacerbate the human suffering and economic costs.

COMPARISON OF DEMOGRAPHIC, SOCIAL, AND ECONOMIC CHARACTERISTICS

Variable	U.S.	Southeast PP Counties (n=242)	GA	GA PP Counties (n=91)	All Other GA Counties (n=68)
Percent of population reporting White as primary race (2000)	77.1	62.6	66.1	61.3	67.5
Percent of population reporting African American as primary race or in combination with other races (2000)	12.9	33.9	29.2	36.1	27.3
Percent of population reporting Hispanic American as primary race (2000)	12.5	2.9	5.3	3.4	5.9
Percent of the population living in poverty (2000)	12.4	19.4	13.0	20.9	10.8
Percent of children living in poverty, under 18 years of age (2000)	16.1	25.0	16.7	27.4	13.8
Percent of elders living in poverty, age 65 and older (2000)	9.9	18.2	13.5	19.2	11.5
Percent age 25 & older without a high school diploma (2000)	19.6	27.7	21.4	29.5	19.2
Low birth weight birth rate per 1000 births (1996–98)	74.8	95.7	86.2	96.5	83.3
Percent of mobile homes per housing units (2000)	7.6	24.9	12.0	25.8	7.9
Unemployment (2000)	5.8	7.1	5.3	7.1	5.1
Per capita income (2000)	$21,587	$16,049	$21,154	$15,602	$22,717

Note: All data were obtained from the U.S. Bureau of the Census except for the low birth weight birth rates.

POVERTY-RELATED DATA BY COUNTY

[illegible]

POVERTY-RELATED DATA BY COUNTY

U.S. Census Bureau

County		2000 Total Population	White	African Amer.	Asians	Other	Hispanic	Age 0-17	Age 65+	1990 #	1990 %	1993 #	1993 %	2000 #	2000 %	2000 Adults No H.S. Ed	2003 Une Rate	2000 Per Capita Income	2000 % Mobile Home	% Low Weight Births
Effingham		37,535	85.6%	13.3%	0.7%	0.8%	1.4%	29.9%	8.3%	3,261	16.9%	3,256	12.7%	3,425	9.3%	21.7%	4.2	$18,873	32.4%	7.8%
Elbert	*	20,511	67.6%	31.3%	0.3%	1.3%	2.4%	25.8%	14.9%	3,660	19.7%	3,669	19.7%	3,425	17.3%	32.6%	5.5	$14,536	27.2%	7.9%
Emanuel	*	21,837	64.1%	33.6%	0.4%	2.3%	3.4%	27.8%	13.3%	5,404	26.5%	5,176	25.7%	5,512	27.4%	35.6%	4.4	$13,627	26.3%	9.9%
Evans	*	10,495	62.2%	33.1%	0.4%	4.8%	6.3%	27.5%	12.6%	2,115	23.4%	2,124	24.4%	2,057	27.0%	34.3%	5.1	$12,785	30.1%	7.9%
Fannin		19,798	99.0%	0.2%	0.3%	0.3%	0.7%	20.9%	19.3%	3,319	23.1%	2,730	17.2%	2,429	12.6%	29.7%	3.9	$16,269	13.5%	6.2%
Fayette		91,263	84.9%	11.2%	2.8%	1.1%	2.9%	29.1%	8.9%	1,927	6.3%	1,622	2.6%	2,396	2.6%	7.8%	2.6	$29,464	4.1%	6.6%
Floyd		90,565	82.3%	13.5%	1.1%	3.3%	5.6%	24.0%	13.9%	13,564	12.3%	10,036	13.6%	12,536	14.4%	29.0%	4.7	$17,808	9.8%	9.1%
Forsyth		98,407	96.9%	0.8%	1.0%	2.7%	5.2%	27.9%	7.1%	2,960	10.7%	2,964	6.8%	5,352	5.5%	14.3%	2.1	$29,114	10.3%	6.7%
Franklin		20,285	90.2%	9.1%	0.4%	0.6%	0.2%	23.9%	15.3%	2,040	19.8%	2,917	10.5%	2,724	13.9%	33.6%	4.2	$15,767	31.2%	9.6%
Fulton		816,006	48.1%	45.2%	3.4%	3.2%	5.9%	24.4%	8.6%	121,399	21.2%	116,511	18.4%	[illegible]	16.7%	18.0%	5.9	$30,003	0.4%	9.8%
Gilmer		23,456	94.7%	0.2%	0.3%	4.6%	7.7%	24.3%	13.1%	2,232	20.4%	2,176	16.8%	2,352	12.5%	34.6%	4.2	$17,147	22.1%	8.7%
Glascock	*	2,556	90.8%	8.6%	0.3%	0.2%	0.5%	22.9%	16.2%	472	20.7%	376	16.6%	430	17.2%	33.0%	12.3	$14,185	38.2%	6.0%
Glynn		67,568	71.9%	26.6%	0.9%	1.2%	3.3%	25.5%	14.4%	8,773	16.1%	8,754	14.3%	10,126	15.1%	17.6%	5.5	$21,707	13.1%	8.9%
Gordon		44,104	90.8%	3.7%	0.7%	5.3%	7.4%	26.1%	10.6%	3,872	12.9%	3,892	11.1%	4,223	9.9%	34.1%	3.5	$17,586	16.2%	8.5%
Grady	*	23,659	65.1%	30.5%	0.4%	3.4%	5.2%	27.3%	13.2%	5,271	23.5%	4,446	22.3%	4,372	21.1%	33.6%	7.4	$14,278	31.3%	10.6%
Greene	*	14,406	55.4%	44.7%	0.3%	1.8%	2.9%	23.1%	14.4%	3,000	26.6%	2,827	23.1%	3,185	22.3%	33.0%	6.7	$25,389	20.4%	10.7%
Gwinnett		588,448	74.3%	13.3%	7.2%	5.4%	10.9%	28.2%	5.4%	9,269	3.8%	16,391	4.9%	35,007	5.7%	12.1%	3.9	$25,006	2.3%	6.7%
Habersham		35,902	89.8%	4.5%	2.2%	3.5%	7.7%	22.5%	13.6%	3,440	14.7%	2,952	11.6%	4,146	12.2%	29.1%	4.2	$17,706	23.5%	8.0%
Hall		139,277	82.9%	7.3%	1.5%	9.5%	19.6%	26.9%	9.4%	8,720	10.9%	9,107	10.6%	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Hancock	*	10,076	21.7%	78.2%	0.1%	0.3%	0.5%	24.1%	12.3%	3,655	39.3%	2,625	30.1%	2,540	29.4%	37.6%	13.7	$10,916	30.2%	10.6%
Haralson		25,690	93.3%	5.6%	0.4%	0.7%	0.8%	26.1%	13.2%	2,764	16.2%	3,117	14.4%	3,314	13.5%	31.6%	4.7	$15,823	22.6%	6.0%
Harris		23,695	79.2%	19.7%	0.7%	0.5%	1.1%	25.6%	11.2%	2,625	17.2%	2,437	10.7%	1,929	8.2%	21.0%	3.4	$21,680	15.0%	8.4%
Hart		22,997	79.6%	19.5%	0.6%	0.4%	0.5%	22.5%	16.6%	3,239	16.6%	2,742	14.2%	3,129	14.8%	35.9%	5.3	$16,714	25.7%	9.6%
Heard		11,012	88.1%	11.1%	0.2%	0.7%	1.1%	26.7%	11.3%	1,082	16.0%	1,610	16.1%	1,486	13.6%	34.0%	6.7	$15,132	38.5%	8.5%
Henry		119,341	82.9%	15.1%	2.1%	1.1%	2.3%	28.2%	7.4%	3,776	6.5%	5,514	6.1%	5,821	4.9%	15.8%	2.7	$22,945	7.2%	6.5%
Houston		110,765	71.9%	25.3%	2.2%	1.4%	3.3%	28.2%	9.3%	8,637	12.9%	9,272	10.5%	11,096	10.2%	18.7%	4.6	$19,515	12.9%	8.8%
Irwin		9,931	72.3%	26.7%	0.4%	1.4%	2.3%	26.6%	14.1%	2,168	24.7%	2,316	27.2%	1,857	17.4%	32.9%	5.2	$14,867	32.1%	9.0%
Jackson		41,589	88.9%	8.1%	1.2%	1.3%	3.3%	25.6%	10.4%	3,542	14.1%	4,157	14.1%	4,876	12.0%	31.9%	3.4	$17,808	30.8%	6.0%
Jasper		11,426	71.3%	27.2%	0.2%	0.8%	2.1%	27.2%	11.8%	1,656	20.4%	1,562	17.5%	1,604	14.2%	33.3%	4.1	$19,249	26.1%	7.4%
Jeff Davis	*	12,684	81.7%	13.2%	0.5%	2.8%	5.1%	27.2%	11.2%	1,647	17.1%	2,242	18.8%	2,434	19.4%	32.7%	5.6	$13,780	34.8%	8.3%
Jefferson	*	17,266	42.4%	56.1%	0.2%	1.3%	1.6%	28.4%	13.1%	5,460	30.4%	5,112	21.3%	3,854	22.3%	41.6%	11.8	$13,482	27.8%	11.0%
Jenkins	*	8,575	56.9%	40.8%	0.3%	2.2%	3.3%	26.5%	13.8%	2,561	29.8%	2,247	27.8%	2,419	28.4%	38.0%	10.7	$13,400	35.2%	8.8%
Johnson	*	8,560	62.7%	37.3%	0.2%	0.1%	0.5%	22.1%	15.0%	2,323	28.1%	1,339	22.2%	1,830	22.6%	31.6%	5.5	$12,384	31.4%	12.0%
Jones		23,639	76.6%	23.6%	0.2%	0.4%	0.7%	27.1%	10.3%	2,429	14.0%	2,232	10.8%	2,379	10.2%	22.1%	4.4	$19,126	31.5%	9.0%
Lamar		15,912	68.5%	30.5%	0.4%	0.5%	1.1%	24.5%	12.8%	1,660	16.3%	2,079	16.3%	1,875	13.2%	28.7%	5.6	$16,666	34.5%	10.0%
Lanier	*	7,241	72.7%	25.2%	0.7%	0.8%	1.7%	27.4%	10.8%	1,563	26.4%	1,412	25.9%	1,284	16.5%	33.0%	4.2	$13,650	40.5%	7.5%
Laurens		44,874	63.9%	34.6%	0.6%	0.9%	1.2%	26.8%	13.3%	7,213	20.1%	7,741	20.5%	8,026	18.4%	32.3%	5.2	$16,762	22.3%	10.2%
Lee		24,757	82.8%	15.7%	1.0%	0.7%	1.2%	32.7%	6.3%	1,800	16.7%	1,984	12.0%	1,918	8.2%	18.7%	3.4	$19,857	19.1%	8.3%
Liberty		61,610	48.9%	43.3%	2.4%	5.8%	8.2%	32.0%	3.5%	8,206	20.9%	7,745	17.2%	8,464	15.9%	13.5%	5.8	$14,259	24.4%	8.4%
Lincoln		8,348	64.7%	34.5%	0.3%	0.3%	1.3%	24.4%	14.8%	1,231	16.3%	1,321	17.8%	1,270	16.3%	29.2%	5.2	$15,501	38.2%	8.6%
Long		10,304	60.9%	25.3%	1.0%	4.2%	8.4%	32.1%	5.5%	1,103	24.5%	1,149	23.7%	1,288	19.5%	25.2%	5.6	$12,586	60.6%	9.5%
Lowndes		92,115	63.0%	34.5%	1.0%	1.4%	2.7%	26.2%	9.3%	12,606	19.2%	14,246	19.9%	14,622	16.3%	22.3%	5.8	$16,683	14.2%	9.3%
Lumpkin		21,016	95.5%	1.2%	0.5%	1.8%	1.8%	24.5%	9.7%	1,863	16.5%	2,336	16.3%	2,632	13.2%	28.0%	4.2	$18,062	23.8%	6.0%
Macon	*	14,074	37.9%	59.6%	0.7%	1.7%	2.8%	27.0%	12.1%	4,442	29.5%	3,717	29.2%	3,377	26.8%	38.5%	8.1	$11,820	28.2%	11.3%
Madison		25,730	89.9%	8.4%	0.5%	1.3%	2.3%	26.5%	11.2%	2,643	16.1%	3,202	12.9%	2,924	11.6%	30.2%	3.7	$16,936	34.4%	7.0%
Marion	*	7,144	62.0%	34.5%	0.4%	3.1%	5.8%	26.3%	10.8%	1,664	29.8%	1,950	28.2%	1,578	22.4%	34.6%	3.6	$14,044	40.7%	11.6%
McDuffie		21,231	61.3%	37.2%	0.6%	0.6%	1.3%	27.9%	11.9%	3,760	20.5%	4,293	21.8%	3,882	18.5%	33.3%	7.7	$18,036	28.1%	11.9%
McIntosh	*	10,847	62.0%	37.3%	0.3%	0.4%	0.5%	25.0%	11.8%	2,017	21.4%	1,912	22.3%	1,932	16.7%	28.5%	6.7	$14,253	43.0%	8.4%
Meriwether	*	22,534	56.7%	42.4%	0.3%	0.2%	1.0%	27.6%	13.8%	4,364	20.9%	4,862	22.4%	4,357	17.8%	34.5%	7.2	$15,708	22.6%	11.4%
Miller	*	6,383	70.6%	29.3%	0.1%	0.3%	0.7%	26.3%	17.1%	1,011	27.3%	1,357	22.1%	1,322	21.2%	31.0%	4.0	$15,435	24.6%	6.0%

POVERTY-RELATED DATA BY COUNTY

U.S. Census Bureau

County		2000 Total Population	White	African Amer.	Asians	Other	Hispanic	Age 0-17	Age 65+	1990 #	1990 %	1993 #	1993 %	2000 #	2000 %	2000 Adults No H.S. Ed	2003 Une Rate	2000 Per Capita Income	2000 % Mobile Home	% Low Weight Births
Mitchell	*	23,932	50.1%	48.2%	0.4%	1.5%	2.1%	27.5%	11.7%	6,777	29.5%	5,712	26.7%	5,723	26.4%	34.7%	5.2	$13,940	28.9%	10.1%
Monroe		21,757	70.9%	28.2%	0.6%	0.3%	1.3%	26.3%	10.3%	2,235	15.9%	2,270	13.8%	2,069	9.8%	22.3%	3.4	$19,580	25.3%	10.8%
Montgomery	*	8,273	70.3%	27.4%	0.4%	2.3%	3.7%	25.0%	10.6%	1,565	23.5%	1,545	24.5%	1,485	19.9%	25.6%	3.6	$14,182	53.5%	7.1%
Morgan		15,457	70.3%	29.3%	0.5%	0.8%	1.8%	26.8%	12.8%	2,464	21.7%	1,956	15.0%	1,870	10.9%	26.0%	5.1	$16,823	20.7%	10.5%
Murray		36,506	96.1%	0.9%	0.4%	2.2%	5.4%	28.0%	8.3%	2,772	14.1%	2,910	11.3%	4,582	12.7%	38.5%	4.0	$16,230	39.5%	8.1%
Muscogee		186,291	51.9%	44.8%	2.0%	2.5%	4.6%	26.8%	11.7%	29,162	18.0%	21,947	16.6%	27,741	15.7%	21.5%	7.0	$18,262	3.5%	10.0%
Newton		62,001	76.1%	22.6%	0.9%	0.9%	1.9%	27.7%	9.3%	4,768	14.2%	5,972	14.5%	6,379	10.0%	25.2%	5.2	$19,317	8.2%	7.9%
Oconee		26,225	90.3%	6.8%	1.7%	1.8%	3.2%	30.2%	8.8%	1,247	15.1%	1,377	7.9%	1,666	6.5%	13.3%	3.7	$24,153	12.8%	6.8%
Oglethorpe	*	12,635	79.0%	20.2%	0.2%	0.2%	1.4%	26.8%	12.4%	1,875	16.9%	1,566	16.2%	1,887	13.2%	27.9%	3.3	$17,089	53.2%	7.5%
Paulding		81,678	91.6%	7.3%	0.6%	0.8%	1.7%	30.7%	5.8%	3,228	12.4%	3,636	8.8%	4,454	5.5%	18.2%	3.0	$19,974	8.7%	6.9%
Peach	*	23,668	51.9%	45.7%	0.5%	2.1%	4.2%	25.0%	9.8%	4,793	26.2%	4,911	24.0%	4,585	20.2%	25.6%	12.5	$16,031	19.4%	11.4%
Pickens		22,983	97.0%	1.3%	0.3%	1.2%	2.3%	23.6%	13.2%	1,568	17.1%	1,814	12.8%	2,080	9.2%	23.6%	2.8	$19,274	20.8%	6.0%
Pierce	*	15,636	87.5%	11.2%	0.3%	1.1%	2.1%	26.7%	12.2%	2,056	22.9%	2,937	21.3%	2,349	16.4%	33.2%	4.2	$14,230	54.1%	6.1%
Pike		13,688	84.1%	15.3%	0.5%	0.5%	1.2%	27.6%	10.9%	1,297	14.8%	1,339	13.4%	1,276	9.6%	24.7%	3.4	$17,661	17.8%	6.6%
Polk		38,127	84.3%	13.7%	0.4%	5.3%	7.2%	26.1%	13.2%	5,126	16.9%	5,437	16.3%	5,744	15.5%	35.7%	5.2	$15,617	12.8%	6.5%
Pulaski	*	9,588	63.7%	34.6%	0.5%	1.3%	2.8%	23.1%	13.3%	2,216	26.1%	1,934	24.3%	1,306	16.4%	28.6%	5.5	$16,435	20.3%	10.7%
Putnam	*	18,812	66.9%	30.3%	0.9%	1.3%	2.2%	23.2%	14.1%	2,021	20.1%	2,277	16.4%	2,325	14.5%	23.6%	3.8	$20,127	30.4%	7.8%
Quitman	*	2,598	52.5%	47.2%	0.0%	0.2%	0.6%	24.0%	19.6%	588	40.7%	727	33.0%	556	21.9%	43.2%	5.6	$14,301	67.1%	8.8%
Rabun		15,050	95.2%	1.3%	0.5%	2.5%	4.6%	21.8%	18.1%	1,770	17.1%	1,557	13.9%	1,349	11.1%	24.6%	4.5	$20,608	15.7%	7.6%
Randolph	*	7,791	39.3%	59.7%	0.3%	0.6%	1.2%	27.3%	15.6%	3,119	38.7%	2,740	35.9%	2,070	27.7%	37.6%	7.5	$11,839	23.8%	11.0%
Richmond		199,775	46.3%	50.0%	2.0%	1.8%	2.8%	26.8%	10.9%	[illegible]	16.3%	32,590	16.2%	37,313	19.6%	22.0%	3.2	$17,088	9.2%	9.7%
Rockdale		70,111	76.8%	18.7%	2.1%	3.3%	6.3%	27.3%	9.2%	3,010	8.2%	3,289	8.2%	5,073	6.2%	17.6%	4.2	$22,300	4.3%	7.9%
Schley	*	3,766	66.6%	31.7%	0.3%	1.9%	2.4%	29.5%	11.1%	821	26.9%	716	19.9%	746	19.9%	33.1%	5.7	$14,981	40.3%	12.1%
Screven	*	15,374	55.9%	43.5%	0.4%	0.4%	1.3%	27.9%	14.3%	4,745	34.1%	3,112	22.9%	3,343	20.1%	33.7%	5.4	$13,894	37.2%	12.1%
Seminole	*	9,369	62.1%	34.8%	0.2%	3.0%	3.0%	26.2%	15.9%	2,110	23.4%	2,577	29.1%	2,114	23.2%	32.7%	7.6	$14,635	34.9%	10.9%
Spalding		58,417	67.2%	31.4%	0.8%	0.9%	1.6%	27.3%	11.3%	8,327	17.6%	8,352	15.6%	8,558	15.5%	32.2%	6.2	$16,791	10.6%	9.3%
Stephens		25,435	86.5%	12.4%	0.6%	0.6%	1.3%	22.5%	15.6%	3,733	14.9%	3,548	14.0%	3,732	15.1%	29.9%	4.2	$15,529	24.3%	10.0%
Stewart	*	5,252	37.7%	62.1%	0.4%	0.3%	1.6%	24.9%	18.6%	2,267	38.8%	1,741	31.4%	1,397	22.2%	36.6%	10.1	$16,071	31.5%	14.5%
Sumter	*	33,200	48.7%	49.3%	0.7%	1.3%	2.7%	27.8%	12.0%	6,463	23.2%	7,147	24.8%	6,726	21.5%	33.7%	6.9	$15,083	20.9%	11.9%
Talbot	*	6,498	37.3%	62.1%	0.3%	0.4%	1.3%	24.2%	14.4%	1,342	20.8%	1,519	24.0%	1,589	24.2%	35.2%	8.7	$14,539	50.3%	9.6%
Taliaferro	*	2,077	38.7%	60.7%	0.2%	0.5%	0.9%	24.1%	18.5%	558	22.4%	638	21.9%	479	25.4%	43.5%	5.9	$15,498	56.2%	11.1%
Tattnall	*	22,305	61.3%	31.8%	0.4%	7.3%	8.4%	22.9%	11.2%	4,404	28.3%	3,356	21.9%	4,389	23.9%	33.7%	8.8	$15,439	55.3%	9.0%
Taylor	*	8,815	58.1%	42.3%	0.3%	1.2%	1.9%	26.9%	15.3%	2,277	26.1%	2,244	29.1%	2,112	26.9%	36.4%	9.5	$13,432	40.3%	11.4%
Telfair	*	11,794	60.0%	38.7%	0.3%	1.3%	1.8%	22.5%	14.6%	2,059	26.5%	2,315	27.3%	2,169	21.2%	35.4%	6.5	$14,197	29.9%	15.4%
Terrell	*	10,970	38.5%	61.3%	0.9%	0.3%	1.2%	28.4%	15.3%	3,895	31.1%	3,342	29.1%	3,389	28.6%	35.5%	9.5	$15,354	18.5%	11.9%
Thomas	*	42,737	60.0%	39.2%	0.8%	0.7%	1.7%	27.1%	15.7%	7,569	21.2%	8,082	22.6%	7,231	17.4%	26.5%	6.6	$16,217	22.6%	7.9%
Tift	*	38,407	68.2%	28.7%	1.1%	5.3%	7.3%	27.2%	11.4%	7,210	22.6%	7,151	22.9%	7,374	19.9%	32.1%	5.5	$16,833	27.6%	10.6%
Toombs	*	26,067	69.7%	24.4%	0.9%	5.8%	8.7%	28.6%	12.7%	5,778	26.0%	5,853	24.0%	6,326	23.9%	32.7%	6.7	$14,253	28.2%	8.1%
Towns		9,319	99.2%	0.2%	0.4%	0.3%	0.7%	16.3%	25.9%	1,277	22.7%	842	14.9%	1,042	11.8%	24.0%	3.6	$18,221	21.6%	7.9%
Treutlen	*	6,854	60.2%	33.3%	0.4%	0.5%	1.3%	26.0%	13.2%	1,767	29.3%	1,813	27.1%	1,739	26.3%	38.2%	8.4	$13,122	52.8%	10.2%
Troup	*	58,779	68.5%	32.2%	0.7%	0.2%	1.7%	27.9%	12.8%	8,840	15.9%	8,924	16.3%	8,427	14.9%	27.0%	5.2	$17,670	11.2%	9.5%
Turner	*	9,504	58.6%	41.1%	0.4%	1.3%	2.6%	29.4%	12.6%	3,008	32.0%	2,854	31.3%	2,434	26.7%	32.2%	9.8	$13,454	30.4%	10.8%
Twiggs	*	10,590	55.6%	43.9%	0.3%	0.5%	1.1%	27.0%	11.3%	1,750	18.5%	2,595	26.0%	2,082	19.7%	35.6%	5.3	$14,259	38.8%	10.3%
Union		17,289	98.8%	0.8%	0.4%	0.4%	0.9%	20.0%	21.8%	2,435	20.2%	2,182	16.3%	2,112	12.5%	25.8%	3.2	$18,845	13.8%	6.6%
Upson		27,597	71.9%	28.1%	0.5%	0.4%	1.2%	26.3%	14.2%	3,322	13.0%	5,754	14.7%	3,930	14.7%	33.3%	7.3	$17,062	18.8%	10.9%
Walker		61,053	95.2%	4.3%	0.4%	0.6%	0.9%	24.8%	13.9%	6,699	12.3%	7,326	12.8%	7,488	12.5%	33.2%	4.3	$15,867	16.1%	7.8%
Walton		60,687	82.9%	14.7%	0.9%	0.9%	1.5%	28.4%	9.8%	5,225	16.9%	5,324	13.2%	5,529	9.1%	25.5%	3.4	$19,470	11.0%	6.5%
Ware	*	35,483	70.2%	28.9%	0.5%	1.1%	1.3%	24.8%	15.4%	7,666	21.1%	7,119	21.1%	6,822	20.5%	29.7%	5.4	$14,384	21.3%	7.8%
Warren	*	6,336	39.9%	59.7%	0.2%	0.4%	0.8%	26.4%	16.1%	1,824	26.3%	1,342	22.6%	1,387	22.0%	42.9%	9.4	$14,922	35.2%	9.9%
Washington	*	21,176	48.0%	53.6%	0.4%	0.3%	0.6%	26.9%	12.6%	4,717	26.3%	4,020	21.6%	4,543	22.9%	31.7%	5.6	$15,565	29.6%	12.4%

POVERTY-RELATED DATA BY COUNTY

County	2000 Total Population	Percent of Total Population 2000: White	Percent of Total Population 2000: African American	Percent of Total Population 2000: Native American	Percent of Total Population 2000: Other	Percent of Total Population 2000: Hispanic	Age 0-17	Age 65+	Number Living Below Poverty Line 1989: #	1989: %	1999: #	1999: %	2000 Adults No H.S. Ed	2003 Unemp. Rate	2000 Per Capita Income	2000 % Mobile Homes	% Low Weight Births
Wayne	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Webster	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Wheeler	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
White	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Whitfield	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Wilcox	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Wilkes	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Wilkinson	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Worth	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Georgia	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

* Persistent Poverty county.

Note: Above data are also available on the study's website, *www.cviog.uga.edu/poverty/*

APPENDICES

Listed below are additional related resources that can be accessed on the study's website, *www.cviog.uga.edu/poverty*

Appendix A: Principal Project Team, Study on Persistent Poverty in the South

Appendix B: Study on Persistent Poverty in the South, Georgia Maps

Appendix C: Georgia Rural Development Council Maps

Appendix D: An Economic Analysis of Georgia's Persistent Poverty Counties

Appendix E: Persistently Poor Counties in Georgia: Closing the Gap

NOTES

1 Booker T. Washington. *Up from Slavery: An Autobiography* (1965, original 1901). New York: Dodd, Mead, and Company.

2 Report and all related appendices can be found in the poverty study section of the website for the Carl Vinson Institute of Government at the University of Georgia, *www.cviog.uga.edu/poverty.*

3 According to the 2000 U.S. Census, DP-1 data, the total population was 7,528,185.

4 1950,1990, and 2000 U.S. Census data.

5 Georgia Department of Natural Resources: *www.dnr.state.ga.us.*

6 From the 2001 *Georgia Farm Gate Value Report* published by the Center for Agribusiness and Economic Development at the University of Georgia.

7 From the Center for Agribusiness and Economic Development at the University of Georgia's website, *www.agecon.uga.edu/~caed/sectoranalysis.pdf.*

8 From *Snapshots* published by the Georgia Center for Non-Profits.

9 From the University System of Georgia Board of Regents website, *www.usg.edu.*

10 2000 U.S. Census, DP-1 data.

11 1990 and 2000 U.S. Census data.

12 U.S. Census Bureau: Current Population Survey, 1999.

13 This quartile methodology was adapted from Wimberley and Morris, *The Southern Black Belt*, 1997.

14 Mississippi Delta Regional Authority counties in Alabama are not contiguous with the rest of the Delta Region and are included in the proposed region. Additional criteria were developed for metro counties based on U.S. Census Bureau categories of Metropolitan Statistical Areas (MSAs).

- All persistently poor contiguous counties from MSAs in categories D (50,000 to 99,999) and C (100,000 to 249,999) were included in the region.
- Only persistent poverty contiguous counties from category B (250,000 to 999,999) that were not identified as central counties OR had populations under 50,000 were included in the region.
- All counties from category A (1,000,000 +) were excluded from the region.

15 2000 U.S. Census, DP-3 data.

16 Low birth weight babies refer to births less than 2500 grams. Source: National Vital Statistics System, National Center for Health Statistics, and obtained from the Area Resource File (Quality Resource Systems, Inc., Fairfax, VA).

17 2000 U.S. Census, DP-2 data.

18 The Human Capital Vitality Index for Adults, commissioned by the Georgia Rural Development Council, classifies Georgia's 159 counties from best to worst as Vibrant, Strong, Average, Weak, and Distressed, based on the social condition indicators of crime, literacy, health status, and food stamp participation.

19 The Human Capital Vitality Index for Youth and Children, commissioned by the Georgia Rural Development Council, classifies Georgia's 159 counties from best to worst as Vibrant, Strong, Average, Weak, and Distressed, based on the social condition indicators of juvenile arrests, high school dropouts, child mortality, and teen pregnancy.

20 2000 U.S. Census, DP-3 data.

21 The Economic Vitality Index, commissioned by the Georgia Rural Development Council, classifies Georgia's 159 counties from best to worst as Rapidly Developing, Developing, Existing & Emerging Growth Centers, Declining Rural, and Lagging Rural, based on employment growth, average wage growth, population growth, unemployment and poverty rates, and per capita income.

22 The fiscal capacity index, commissioned by the Georgia Rural Development Council, measures the ability of a jurisdiction to raise revenue. Sales tax, property tax, licenses, permits, fees, service charges, and other tax revenues are included in determining a jurisdiction's fiscal capacity. Assuming the state average fiscal capacity is 100 percent, a fiscal capacity of 100 percent or less is lower than the state average, and a fiscal capacity of 100 percent or more is better than the state average.

23 From *Georgia County Snapshots* published by the Georgia Department of Community Affairs.

24 Based on Adult Education Attainment 2000 data included on the County Fact Sheets developed by the Family Connection Partnership.

25 *www.ruralgeorgia.org*

26 Southern Growth Policy Board, Carol Conway and Jim Clinton. *The Mercedes and the Magnolia: Preparing the Southern Workforce for the Next Economy* (2002). *http://www.southern.org/pubs/magnolia/magnolia.shtml.*

27 Southern Growth Policy Board Report distributed at annual conference held June 9-11, 2002, in Hilton Head, South Carolina. *Human Capital Strategies for the Next Economy: Best Practices from the South.*

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Public Service & Outreach

The University of Georgia

Mr. KUCINICH. I do not think this is going to happen right now. Mr. Manning, if you would like to begin with your presentation and we will reset the clock to 5 minutes, and if you would like to begin with your presentation and kind of summarize what the charts and the slides show. And what we will do, you know, when we post this on the Web, I will ask my staff to try to see if we can find a way to integrate your presentation, your slide presentation along with your oral testimony. OK?

Mr. MANNING. My pleasure, sir, thank you.

Mr. KUCINICH. You may proceed.

Mr. MANNING. I am pleased to represent the Fulton County Board of Assessors and we do represent all of Fulton County, slightly over a million of the five million people that Ambassador Young was talking about.

Foreclosures have had a devastating effect on the values of individual properties and the overall tax digest in Fulton County. By all indications, this will continue for the next several years.

As shown on the following charts, the number of valid, or arms length, sales have fallen. At the same time, the number of distressed sales have increased.

Basically we went from having 40,000 arms length usable sales of just residential properties in Fulton County back as recently as 2006, down to less than 30,000 last year and only 12,000 through the first 9 months of 2009.

Similarly, we would have a little bit over 1,100 commercial sales per year throughout Fulton County to help us set our values on. That has fallen to 795, little less than 800 last year, and is only 340 so far this year.

Residential sales specifically, if you notice on the left-hand column, those of you who have the chart in front of you, 28,000 valid sales down to 9400. Simultaneously in those same years, the other than typical, and this is anything that would be considered not an arms length sale such as a distressed sale, a foreclosure and other transfers, have risen dramatically in these years.

There is a chart in there that talks about the sales ratio trends, which are important. You may know that we are measured on our percentage of value to the arms length and good length sales. The Board prides itself with trying to stay in the 92 to 95 percent range, which is a very safe, secure range for the citizens of Fulton County.

By all indications, based on the sales for the first 9 months of this year, the values have fallen another 9 percent on the average across Fulton County. If we had to right now set our January 1, 2010 values, we would be lowering values another 9 to 10 percent.

Commercial sales have seen similar changes. Based on all projections, as we have already heard today, the fallout over the next couple of years may be even greater for commercial properties. Sales ratios show us that we used to have 750–775 a year and we would have half that in non-typical sales. In 2008, we had 328 in the most viable city and county in the Southeast. And at the same time, we had more than 50 percent more than that of questionable sales, of non-typical for the market sales. So far this year, we have only had 240 good sales and that is just hard to deal with when we are setting values.

Sales ratios will show you that prior to us doing the commercial reval, we were running in the 80 percent range. We are holding in the 93–94 percent range. I actually believe that the statistics in front of you for commercial where we have labeled for 2010 are understated. It is based—it is what it says based on the sales that we have right now. But we are expecting the shoe to drop. We are expecting commercial sales and commercial values to fall.

There was an article in the Atlanta Journal-Constitution just last week which referred to the 12 years of office space that we have available. If in fact, we are to fill the office space at the current rate it has been going, frankly, it would take a better than current rate to do it, it would take 12 years to get us back to that point.

The end result has been and will continue to be increased millage rates, as Congressman Westmoreland said, resulting in higher tax bills, even though appraised values have fallen, if the cities, the school boards and the county governments that depend on our tax digest are to provide the services they are supposed to.

There is a chart in there that shows the gross digest by class and shows the residential part dipping. Again, it shows the commercial staying flat or up slightly; however, I am sitting here with $3 billion of assessed value in appeal from my 2009 commercial property. So by the time that gets resolved, I think you will see the downturn.

Then, last but not least, I think we are a tale of two cities—two buildings, two cities. A couple of years ago, the Bank of America building sold for a little over $300 a square foot. It is billed to be the tallest building in the eastern United States outside the cities of New York and Chicago, and it is right here in Atlanta. And the people who bought it and invested in it thought that they had a gem. They are already appealing their value, they are already seeing occupancy fall and do not know where it will end. Simultaneously, right outside this building, you can look downtown and see a building called the Equitable Building. At the time when it foreclosed in June of this year, it was the third largest office building in the United States that had foreclosed this year. It sold originally in 2006 for $100 a square foot, it was foreclosed at less than $50 a square foot for a prime class A office building.

Respectfully, I am here if I can be any help to you. I appreciate the opportunity to participate.

Mr. KUCINICH. I want to thank Mr. Manning for that testimony. Thank you, sir.

The Chair recognizes Mr. Brewer. You may proceed, Mr. Brewer, 5 minutes.

[The prepared statement of Mr. Manning follows:]

BOARD OF ASSESSORS
Fulton County Government Center
141 Pryor Street, S.W.; Suite 2052
Atlanta, Georgia 30303

FULTON COUNTY

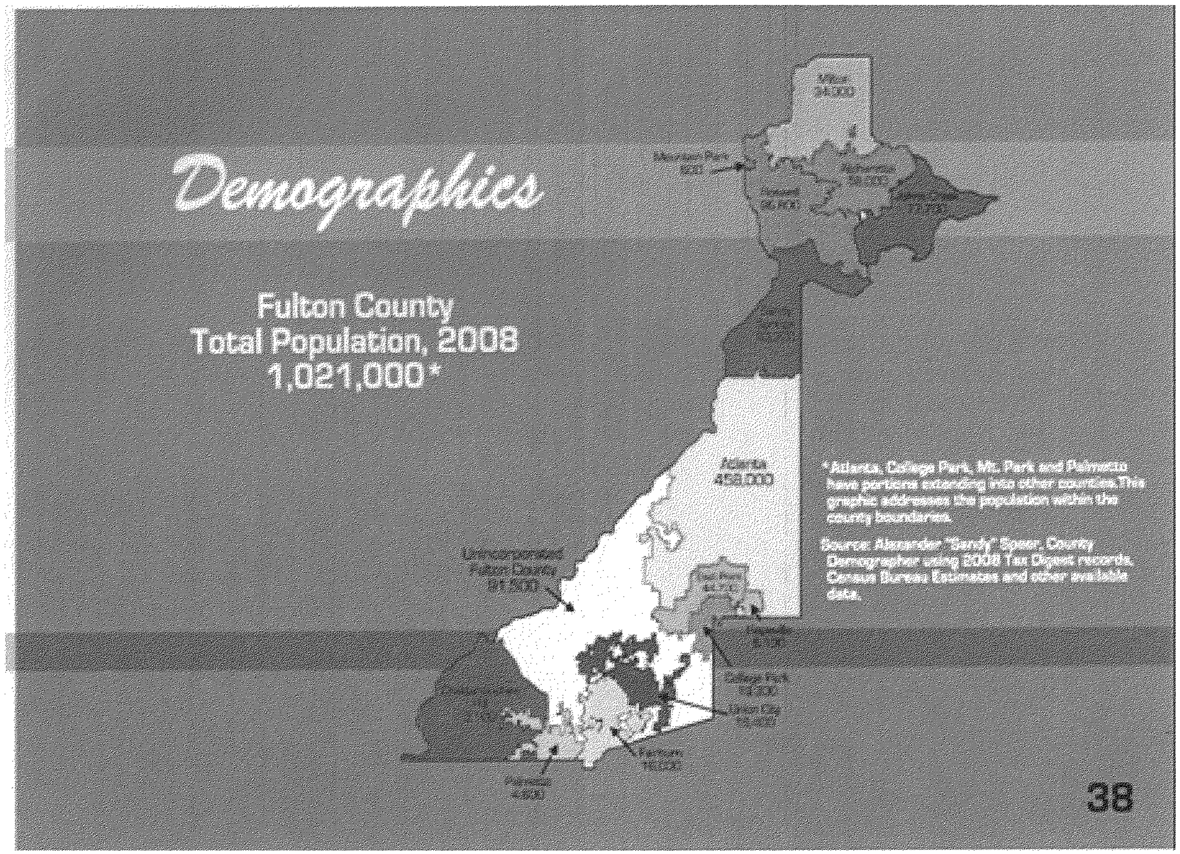
Domestic Policy Subcommittee
Oversight and Government Reform Committee
Committee Room 450 of the Georgia State Capitol Building
206 Washington Street Southwest
Atlanta Georgia
Monday, November 2, 2009
11:30 a.m.

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

Fulton County
Board of Assessors Office

141 Pryor Street, Suite 2052
Atlanta, GA 30303

Burt Manning
Chief Appraiser

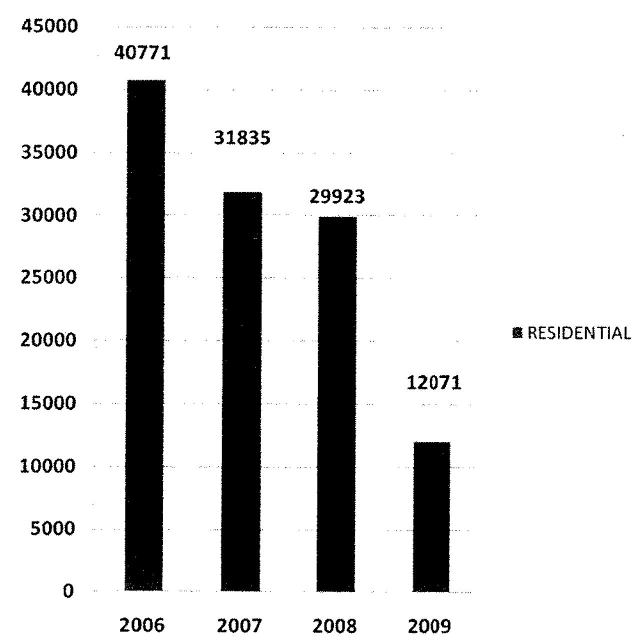

Demographics
Fulton County
Total Population, 2008
1,021,000*
Milton
34,000
Atlanta
458,000
Unincorporated
Fulton County
91,500
*Atlanta, College Park, Mt. Park and Palmetto have portions extending into other counties. This graphic addresses the population within the county boundaries.
Source: Alexander "Sandy" Spear, County Demographer using 2008 Tax Digest records, Census Bureau Estimates and other available data.
38

- Foreclosures have had a devastating effect on the values of individual properties and the 'overall' tax digest in Fulton County. By all indications this will continue for the next several years.

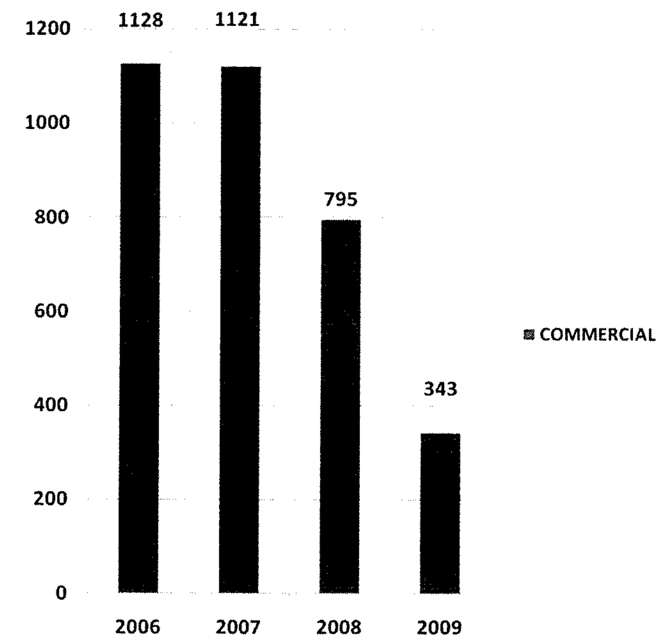
- As shown on the following charts, the number of 'valid' (arms length) sales have fallen and, at the same time, the number of 'distressed' sales have increased.

FULTON COUNTY SALES TRENDS
VALID AND NON-VALID COMBINED

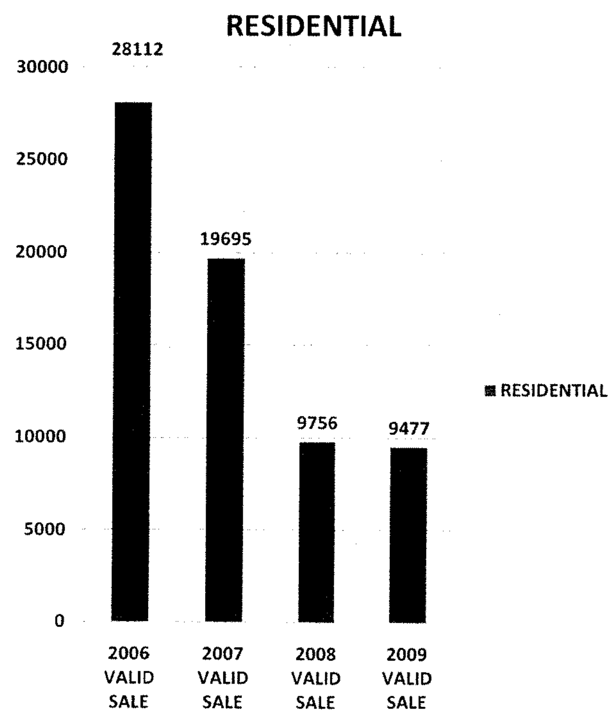
RESIDENTIAL

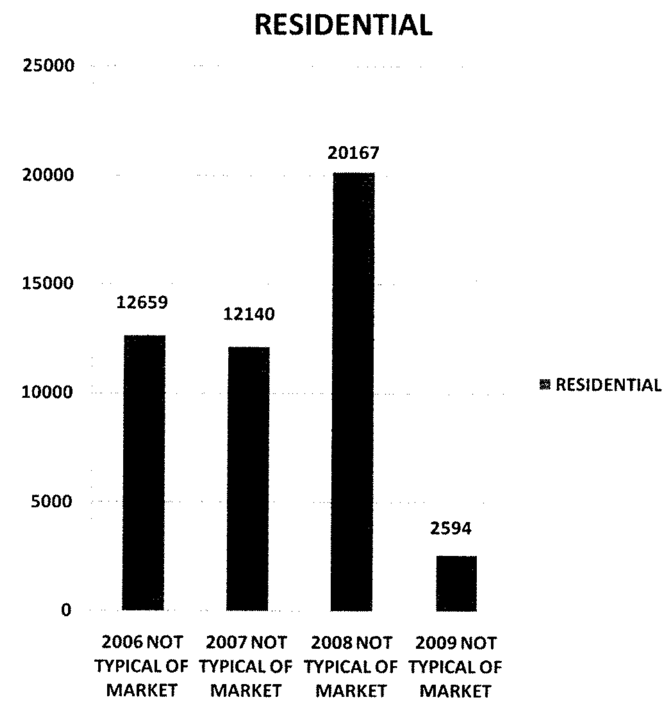


COMMERCIAL



FULTON COUNTY SALES TRENDS
RESIDENTIAL SALES

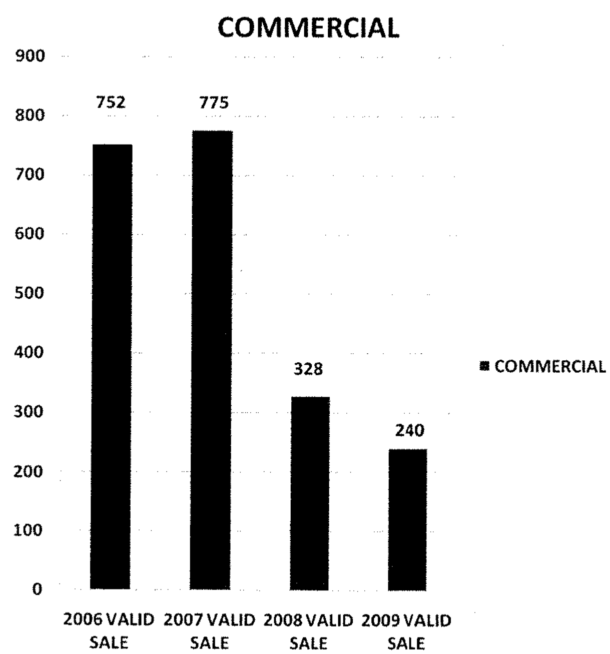


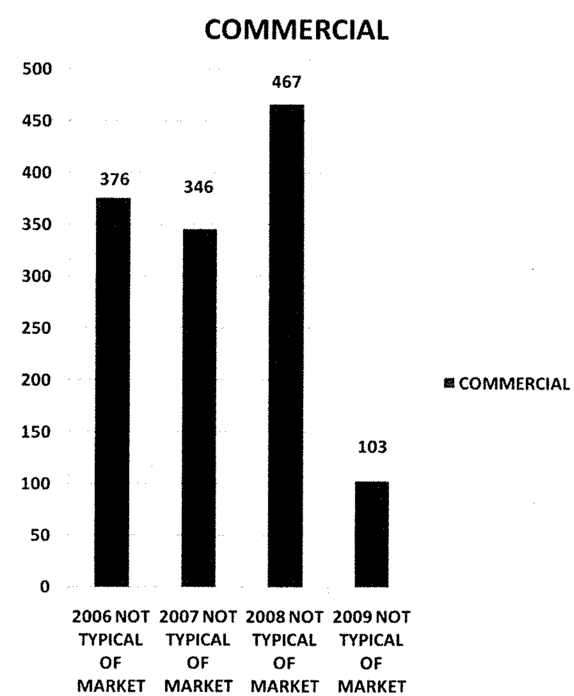


- Commercial sales have experienced similar changes.

- Based on all projections, the ‘fallout’ over the next couple of years may be even greater for commercial properties.

FULTON COUNTY SALES TRENDS
COMMERCIAL SALES





The end result has been a need for increased millage rates resulting in higher tax bills, even as appraised values fall.

Burt Manning

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www.fultonassessor.org

STATEMENT OF BRENT BREWER

Mr. BREWER. Good morning, Chairman and members of the subcommittee. Thank you for inviting me here today to testify on issues concerning the residential real estate finance crisis. Over 3 years before the foreclosure crisis became a national issue, I came to be interested in the mortgage fraud/foreclosure issue as an individual concerned about the many vacancies it created in my neighborhood of historic West End, a zip code 30310 community, and why our tax assessments were rising based on implausible property values.

For the bulk of the last decade, the zip code 30310 communities have been the most mortgage fraud impacted communities in the State of Georgia, as well as the nation. Mortgage fraud has turned about 30 percent of the homes in my neighborhood into empty shells.

As the chair of the Historic West End Mortgage Fraud Committee, in November 2006, I organized a mortgage fraud inventory of my entire neighborhood that identified over 300 out of 950 residential houses suspected of mortgage fraud, based on inflated sales history without evidence of renovation supporting the high sales prices. This extreme vacancy rate depressed property values, created a variety of public safety issues and deprived the neighborhood of new residents who could make a positive contribution to the development of the community.

Mortgage fraud also artificially boosted property taxes. It unfairly taxed any new homeowner who purchased in the neighborhood after 2000. Based on an inflated previous sale, the property tax increase was a disincentive to potential owner-occupants. New neighbors complained of paying an additional $300 a month in property taxes. It also is a persistent problem for long-term residents who see their property taxes increase even as the blight of vacant houses decreased their home equity. Even if the property tax is corrected, there is no hope of recouping this money.

Thus, mortgage fraud has been the most pressing issue facing historic West End, a neighborhood which sought to protect its historic houses from fraudsters through a State historic designation and which wanted to market itself as the next intown single family residential destination.

If you define a mortgage fraud property as a property bought and sold with no intention of anyone living in it for long periods of time, the prevailing mortgage fraud imagery has commonly been portraits of abandonment and blight, such as entire streets of vacant houses or overly priced properties in various levels of disrepair.

In 2007, I produced a documentary with a neighbor, Pollock Richards, called “When a House Is Not a Home,” to show historic West End as a neighborhood of beautiful housing stock and neighbors with an elevated sense of community. Through addressing the issue and dispelling some misrepresentations about our mortgage fraud impacted neighborhood, we hoped to encourage new neighbors to move into the hundreds of houses left vacant by mortgage fraud activity, effectively turning our vacant houses back into homes.

Once the extent of the mortgage fraud problem was identified, my neighbors redoubled marketing efforts to promote the historic

West End to attract new residents to buy our vacant properties. During the 2006 and 2007 calendar years, the historic West End neighborhood was featured in Atlanta Journal-Constitution articles, established a community newsletter and Web site to highlight the community's unique assets, re-established a tour of homes event, and promoted their neighborhood in the spring and fall 2007 Home Atlanta Show.

Just as important, the neighborhood demanded retractions for any stories that unjustly painted the neighborhood in a negative light. Consequently, the historic West End experienced 70 sales in both 2007 and 2008.

Since the foreclosure crisis went national in the fall of 2008, the historic West End neighbors have addressed the foreclosure issue with the following actions: In November 2008, our neighbors were outraged that the city of Atlanta's Neighborhood Stabilization Program application failed to acknowledge that the HUD defined areas of greatest need overlapped the heavily mortgage fraud impacted neighborhoods of northwest and southwest Atlanta.

Collaborating with four other southwest neighborhoods, the historic West End Neighborhood Association grudgingly supported an application for a not-for-profit organization to acquire, rehab and sell 25 foreclosed single family homes in the five neighborhoods. The not-for-profit organization, University Community Development Corp., was awarded an NSP grant. In support of the application, the neighborhood association submitted a list of approximately 34 closed single family fixer uppers in need of substantial repairs thought to be too costly for the targeted owner-occupant home buyer. These properties were concentrated in historic West End's northwest quadrant, the most mortgage fraud impacted portion of our neighborhood.

In October 2009, UCDC contacted the neighborhood requesting additional properties because many of the properties on their original list were no longer available. In the northwest quadrant, considering the original list, there has been 27 house sales with an average sales price of approximately $50,000; 21 of the 27 properties have been purchased by investors through cash sales, meaning there have only been warranty deeds. Even though those properties have sat empty for years, no building permits have been applied for. To the neighborhood's detriment, the speculation market appears to be out competing the neighborhood stabilization program effort.

Thank you.

[The prepared statement of Mr. Brewer follows:]

Brent Douglas Brewer
Zip Code 30310 Mortgage Fraud Task Force Member

before

Committee on Oversight and Government Reform
Subcommittee on Domestic Policy
November 2, 2009

Good morning Chairman Kucinich and members of the Subcommittee. Thank you for inviting me here today to testify on issues concerning the residential real estate finance crisis. Over three years before the foreclosure crisis became a national issue, I came to be interested in the mortgage fraud/ foreclosure issue as an individual concerned about the many vacancies it created in my neighborhood of Historic West End, a zip code 30310 community, and why our tax assessments were rising based on implausible property values.

For the bulk of the last decade, the zip code 30310 communities have been the most mortgage fraud impacted communities in the state of Georgia as well as the nation.

According to the Georgia Residential Mortgage Fraud Act, in simplest terms, mortgage fraud describes a broad variety of criminal actions where the intent is to materially misrepresent or omit information on a mortgage loan application to obtain a larger loan than would have been obtained had the lender known the truth.

On a neighborhood level, mortgage fraud had turned about thirty percent of the homes in the neighborhood into empty shells. As the chair of the Historic West End's mortgage fraud committee, in November 2006, I organized a mortgage fraud inventory of my entire neighborhood that identified over 300 out of 950 residential houses suspected of mortgage fraud based on an inflated sales history without evidence of renovation supporting the high sales prices. This extreme vacancy rate depressed property values, created a variety of public safety issues, and deprived the neighborhood of new residents who could make a positive contribution to the development of the community.

Mortgage fraud also artificially boosted property taxes. It unfairly taxed any new home owner who purchased in the neighborhood after 2000. To pay double the property tax on a property (based on an inflated previous sale) in need of several thousand dollars in repair cost (from years of neglect), the property tax increase was a disincentive to potential owner-occupants. New neighbors complained of paying an additional $300/month in property taxes. It is also a persistent problem for long time residents who see their property taxes increase even as the blight of vacant houses decreases their home equity. Even if the property tax is corrected, there is no hope of recouping this money.

Thus, mortgage fraud has been the most pressing issue facing the Historic West End, a neighborhood which sought to protect it's historic houses from fraudsters through a state historic designation and which wanted to market itself as the next "intown" single family residential destination.

If you define a mortgage fraud property as a property bought and sold with no intention of anyone living in it for long periods of time, the prevailing mortgage fraud imagery has commonly been portraits of abandonment and blight such as entire streets of vacant houses or overly priced properties in various levels of disrepair.

In 2007, I produced a documentary, *When a House is Not a Home*, with a neighbor Paulette Richards, to show Historic West End as a neighborhood of beautiful housing stock and neighbors with an elevated sense of community. Through addressing the issue and dispelling some misrepresentations about our mortgage fraud impacted neighborhood, we hoped to encourage new neighbors to move in to the hundreds of houses left vacant by mortgage fraud activity, effectively turning our vacant houses back into homes.

In spring 2008, we undertook a rough cut screening tour, primarily targeting southwest and northwest neighborhoods that were most impacted by mortgage fraud activity. Over 250 residents and community activists attended. In conjunction with the screening tour, a petition was circulated calling for Kevin Wiggins, who had recently pled guilty to conspiracy and wire fraud charges relating to a large-scale mortgage fraud scheme targeting West End neighborhoods, to receive the maximum sentence. Over 100 concerned residents affected by the case signed the petition.

At Kevin Wiggins's sentencing hearing on July 29, 2008 in Federal District Court, the United State's Attorney prosecution team entered into evidence a seven-minute excerpt from *When a House is Not a Home* to buttress its argument that mortgage fraud is not only about defrauding lending institutions and homeowners but also about the devastating impact that such crimes have on the effected community.

The judge sentenced Wiggins to 8 years, 4 months in federal prison, which exceeded the prosecutors' sentencing recommendation. Wiggins was also ordered to serve 3 years of supervised release and pay restitution in the amount of $6,477,164 and for good measure the judge tacked on two hundred hours of community service. Two co-conspirators were also sentenced.

The documentary also provides a step-by-step guide to how a homeowner can proactively challenge a house's elevated tax assessment. It has educated new neighbors to appeal their tax evaluation.

Once the extent of the mortgage fraud problem was identified, my neighbors redoubled marketing efforts to promote the Historic West End to attract new residents to buy our vacant properties. During the 2006 and 2007 calender years, the Historic West End neighborhood was featured in Atlanta Journal Constitution articles, established a community newsletter (*The Our West End Newsletter)* and website to highlight their community's unique assets, reestablished the Tour of Homes event, and promoted their neighborhood in the spring and fall 2007 Home Atlanta show. Just as important, the neighborhood demanded retractions for any stories that unjustly painted the neighborhood in a negative light. Consequently, the Historic West End experienced over 70 sales in 2007 and 2008.

Since the foreclosure crisis went national, the Historic West End neighbors have addressed the foreclosure issue with the following actions:

- In November 2008, our neighbors were outraged that the City of Atlanta's Neighborhood Stabilization Program (NSP) application failed to acknowledge that the HUD-defined areas of greatest need overlapped the heavily mortgage fraud impacted neighborhoods of northwest and southwest Atlanta.
- Collaborating with four other southwest neighborhoods, the Historic West End neighborhood association *grudgingly* supported an application for a not-for-profit organization to acquire, rehab, and sell 25 foreclosed single-family homes, divvied up among the five neighborhoods. The not-for-profit organization, the University Community Development Corporation (UCDC) was awarded the NSP grant in June 2009.
- In support of the NSP application, the neighborhood association submitted a list of approximately 30 foreclosed single family "fixer uppers" in need of substantial repairs (i.e., fire damage, foundation stabilization) thought to be too costly for the targeted owner-occupant homebuyer. These properties were concentrated in Historic West End's northwest quadrant, the most mortgage fraud impacted portion of our neighborhood.
- In October 2009, UCDC requested additional foreclosed properties because many of the properties on our original list were no longer available (see West End Mortgage Fraud Tracking Map NW Quadrant).
- In the northwest quadrant, since generating the original NSP properties list, there has been 32 house sales with a median sales price of $28,625 (see Sales After November 2008 NSP Application Submittal). Investors (non owner-occupied buyers) purchased the majority of these properties. Building permits were seldom applied for suggesting little if any renovation. When building permits were applied for, the cost of construction appears insufficient for the long-term vacancy experienced by these properties. Worst of all, more than 15 properties appear to have been purchased as "dump properties"- properties purchased at a low cash price with no intention of renovation or occupation.
- To the neighborhood's detriment, the speculation market appears to have outcompeted the NSP programs efforts.
- Alyssa Katz's *There Goes the Neighborhood* found similar findings. The article is attached.

Mr. KUCINICH. Thank you very much, Mr. Brewer, for your testimony.

[Applause.]

Mr. KUCINICH. We are going to go now to Mr. Brennan.

I wanted to just state that usually we do not have the audience engage in demonstrations for or against witnesses, but in your case, Mr. Brewer, I feel like the historic West End is a neighborhood that I would applaud for too. So thank you.

Mr. WESTMORELAND. I would like to make a comment if I could. I spent many a day at Gordon Theater there in West End, I do not know if you even know where it is at now. My father was a fireman for 20 of the 26 years he was on the Atlanta Fire Department at Lee and Avon. And all my shopping was done at Sears & Roebuck. So I am very familiar with that beautiful area.

Mr. KUCINICH. The Chair recognizes Mr. Brennan. You may proceed.

STATEMENT OF WILLIAM J. BRENNAN

Mr. BRENNAN. Mr. Chairman, other Members of Congress on this committee, thank you for inviting me to testify about this very serious problem that we have been addressing for almost 20 years now, subprime predatory mortgage lending and other types of abusive mortgage lending.

And Mr. Chair, I would ask for the benefit of the three Congressmen here if this chart could be passed out.

Mr. KUCINICH. Without objection, I would like to take a look at it myself. If staff would get that so we can follow it, please? Just pass it around, we have a lot of people in this room.

Mr. BRENNAN. I also have a blown up chart. I do not know if folks can see it, if it could be raised up somehow.

Mr. KUCINICH. Why do you not proceed then and we will take care of that.

Mr. BRENNAN. Thank you.

Mr. KUCINICH. And maybe what you can do is hold that chart up so that people in the audience can see it and understand Mr. Brennan's testimony. Go ahead, please.

Mr. BRENNAN. The point of that chart, Mr. Chairman, which I will get into in a little more detail, is that this subprime mortgage securitization system where subprime mortgages have been bundled together and securities issued off of them that are sold to investors, has driven this business and has driven our homeowners really into despair, confusion and foreclosures and it needs to be understood, to some extent, how it works and who has been pushing it so hard. Mainly the national investment banks, that jumped into this issue in a big way in the early part of this decade, have bundled together these mortgages to the tune of hundreds of billions of dollars with loans put into the pools that were unaffordable and are now not performing, and those are what we now call—I hate it when they say toxic assets—what they are are securities that are issued off of bundled together defective mortgages that were marketed to people like my client, Ms. Diane McCoy, who is sitting here, from Villa Rica, Georgia who is facing foreclosure. They will not settle her case and that is why we need to be looking at this chart.

I am sorry to get a little emotional, but——

Mr. KUCINICH. Go ahead.

Mr. BRENNAN [continuing]. We see thousands and thousands of cases where homeowners were driven into foreclosure by these terrible lending practices and nothing has really been done to stop it over 20 years that we have looked at this.

And I would just briefly tell you that I started at Atlanta Legal Aid in 1968, worked in the northwest office which covered all of northwest and west Atlanta, which was primarily African-American and still is to a great extent. And I observed in my work there that there was a vast amount of minority African-American homeownership in those communities. Those folks had good solid VA and FHA loans and they were thriving. Occasionally a hard lender would come in from the white community and make an abusive second mortgage loan and we would handle some of those. But by and large, things were doing very well.

In fact, another very positive thing that developed right after that in the late 1980's was an effort of the Georgia Housing Coalition which filed a CRA complaint against then Trust Company Bank, saying that they were not making bank home buyer loans to African-Americans and that is how I met Senator Fort. He was on that committee at the time. And we had a hearing before the Federal Reserve and our request to require Trust Company Bank to make good, affordable loans to eligible, financially eligible African-American home buyers was turned down by the Atlanta Fed. And what resulted was a series—we brought our data over to the Atlanta Constitution and they published a series called "The Color of Money" that showed that these loans were not being made to black home buyers and it won a Pulitzer Prize and in my view changed banking, not just in Atlanta but all over the country. So that was very positive.

Unfortunately, right on the heels of "The Color of Money," which was published in 1988, came the subprime mortgage lending system. And in the early 1990's, at the Home Defense Program, which was created to deal with foreclosure rescue scams, we started seeing a stream of cases that would serve as a warning bell for events to come. Fleet Finance, a subsidiary of the largest bank in New England, Fleet Bank, had headquartered itself in Georgia and it was making atrocious refinance mortgage loans to low-income, largely minority homeowners. These loans carried outrageous interest rates ranging from 19 to 29 percent and high points and fees often exceeding 10 percent. Many of the loans were flipped repeatedly, thereby taking the equity out of the home. This was one of the first times where we saw this warning about the securitization, because all of the Fleet loans were securitized. Chemical Bank was the trustee and they were issuing securities to investors, even back then in the early 1990's.

So we partnered, my partner Karen Brown, and I partnered with some very good private lawyers that were suing Fleet, including former Governor Roy Barnes and his associate Howard Rocklin and attorneys in Augusta, Georgia, one of whom was suing Fleet for race discrimination under the Georgia Fair Housing law. We filed a complaint with the Attorney General Michael Bowers and we really went after Fleet. We sued them in individual cases and they finally collapsed after they were featured on "60 Minutes" and we had settlements all the way around. And Fleet Finance went out of business, not Fleet Bank. It was later acquired by Bank of America, but we thought gee, this was a great effort. And a lot of attention was focused on what was happening with Fleet in Georgia and we thought no other national bank would ever dream of getting into this business.

In fact, just the opposite happened. During—I will just briefly go through two decades here—in the 1990's, we began to see a high volume of cases with The Associates. The Associates took over all the Fleet cases, it was from Texas. It was a finance company owned by the Ford Motor Co. and we were approached by ABC News to do a story about them on Prime Time Live. We did and as soon as that story aired, Ford disassociated itself from The Associates and spun them off to its stockholders as a standalone company. Then Citigroup bought the Associates. We were just amazed that Citigroup, which was then about to become the largest bank in the country, would be buying the worst predatory lender, but that is exactly what happened.

And not just Citigroup, but we saw other companies such as First Union, Chase, Wells Fargo, Washington Mutual and even Bank of America, Nation's Bank, opening up subprime units. I will say one thing about Bank of America, a few years ago, they shut down their subprime units because they did not like the reputation or maybe the exposure they were getting. But the other banks jumped into it in a big way. Not just national banks, but investment banks. Lehman Brothers began this process. Lehman Brothers began underwriting securities based on loans originated by First Alliance Mortgage Co., one of the worst predatory lenders we ever saw. Eventually Lehman began acting as a lender for First Alliance, capitalizing it so it could make more and more abusive, predatory loans. This happened in spite of the fact that internal Lehman investigations revealed that First Alliance had extremely suspect lending and sales practices. But that did not stop Lehman and it did not stop——

Mr. KUCINICH. I am going to ask the witness if you could try to wrap up your testimony so we can try to keep the time equal.

Mr. BRENNAN. Well, I will just end by saying this, you know, in the last decade, there were efforts to deal with predatory lending. Congressman Scott introduced a bill in 1993, a floating interest cap bill, a usury bill, that we thought would drive the lenders out. It did not—it passed the Senate, but not the House. And the Congress enacted the Homeownership Inequity Protection Act, which we thought would stop predatory lending. The triggers were set too high, it did not work. It had assignee liability. It gave the Fed—it gave Chairman Greenspan complete regulatory authority to stop predatory lending in any way he saw fit. He chose not to do so.

You know, the States tried to get into it. Georgia passed the Homeownership Inequity Protection Act after North Carolina passed a very good law, which was the strongest in the country. The industry descended on Georgia when Governor Barnes was not reelected in 2002 and they amended that very good law that would have helped us tremendously, that had some assignee liability, they amended it and gutted it so it is of very little use to us today.

So where do we end up? We end up in the 2000's with these companies running out of financially eligible borrowers and making loans to them anyway, unaffordable loans. When you make unaffordable loans, they put them into these pools, you are affecting the value of the securities for the investors, but you are causing foreclosures. There were almost 12,000 foreclosures, as the chairman stated earlier for October. There is almost a like number for November and we have homeowners like my client, Ms. McCoy from Villa Rica, streaming into our offices with unaffordable loans. The first question we ask is how much was your income when you got the loan and how much is the loan. A typical senior income, $1,400 a month; loan amount, $146,000.

Mr. KUCINICH. I want to thank the gentleman for his testimony.

The Chair recognizes Ms. McCoy. Let me make sure I have this mic working there. You may proceed. We appreciate your presence here.

[The prepared statement of Mr. Brennan follows:]

Testimony of William J. Brennan, Jr.
Director, Home Defense Program of Atlanta Legal Aid Society, Inc.

Before the United States House of Representatives
Domestic Policy Subcommitte
Oversight and Government Reform Committee
Committee Room 450 of the Georgia State Capitol Building
206 Washington Street, S.W.
Atlanta, Georgia

Monday, November 2, 2009
11:30 a.m.

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

I extend my thanks to the United States House Domestic Policy Subcommittee for inviting me to testify regarding the development of the residential foreclosure crisis in Georgia. My name is William J. Brennan, Jr., and I've been an attorney at Atlanta Legal Aid for the last 41 years. For the past 21 years, I've served as the director of the Home Defense Program, a special unit of the Atlanta Legal Aid Society focusing on fraudulent practices targeted against homeowners and homebuyers.

Over the decades, the Home Defense Program has provided legal representation, legal advice, and referrals to low and moderate income homeowners who have been victimized by home equity and home purchase scams, foreclosure rescue scams, and above all, predatory mortgage lending. We also participate in community education efforts aimed at warning homebuyers and homeowners of the abuses and scams found in the mortgage market.

When a homeowner comes to the Home Defense Program for help, we begin by investigating their case for legal claims. Those legal claims vary in the type of remedy they provide. In some cases, we are able to use them to obtain cancellation of the abusive mortgage. In others, we are able to obtain a loan modification for the homeowner that lowers the interest rate, lowers the monthly payments, and, most importantly, lowers the principal balance. With seniors living on a fixed, limited income who may not be able to afford a mortgage payment, we seek to put in a place a reverse mortgage where the abusive lender takes a substantially short payoff in exchange for a settlement of the homeowner's legal claims.

During the course of my career at Atlanta Legal Aid, and through my representation of thousands of homeowners, I have watched the evolution of subprime, predatory lending grow from a problem of lack of access to good credit in low-income and minority neighborhoods, to a series of waves of abusive lending targeted at these same communities beginning in the 90s and cresting in the mid 2000s, culminating in the financial and economic crisis that has battered this nation's economy for the last two years. And while national commentators look at the stock market and proclaim the end of the recession, millions of homeowners are facing foreclosure and the loss of their homes as a direct result of the mortgage meltdown.

There are three primary trends I wish to discuss today that I have observed over the last 41 years of my career. First, I would like to discuss the changes in the types of mortgage loans bearing predatory, abusive features. The second trend is the disturbing increase in predatory mortgage lending by national banks and their subsidiaries. Finally, preemption at the federal level and a weakening of predatory lending laws at the state level have stripped consumers and their advocates of many of the tools they were using to fight predatory lending.

History

I began my career as a staff attorney at the Atlanta Legal Aid Society in 1968 in northwest Atlanta. At the time, I was struck by the high rates of minority homeownership in the communities I worked in. Most of the low and moderate-income homeowners in these communities had good, affordable FHA and VA loans. While these loans were slightly more expensive than the best bank loans, they were underwritten well and serviced effectively. However, because many traditional lenders and banks did not make loans in these communities, there was not enough access to good credit. In the late 60s and early 70s, many of the homeowners in these communities were made second mortgages that were filled with abusive features like high interest rates, high points and fees, and worthless products like credit insurance where the creditor was the named beneficiary.

Predatory mortgage lending largely remained confined to second mortgages made by local hard money lenders for several years. In the late 1980s, we began noticing a large number of foreclosure rescue scam cases in the Atlanta metro area. Con artists were finding homeowners in trouble and reaching out to them, promising they would save their homes. Instead, these scammers wound up stealing their homes and the valuable equity in the homes. I formed the Home Defense Program in 1988 as a special unit to combat these scams, and received HUD Community Development Block Grant funds from the DeKalb County, Georgia Community Development Department to do this work.

In the early 90s, we started seeing a stream of cases that would serve as a warning bell for events to come. Fleet Finance, a subsidiary of the largest national bank in New England, Fleet Bank, had headquartered itself in Georgia and was making atrocious refinance mortgage loans to low-income, largely minority homeowners. These loans carried outrageous interest rates ranging from 19 to 29%, and high points and fees (sometimes exceeding 10%). Many of these loans were flipped repeatedly, stealing equity from homeowners. Finally, many of these loans were securitized – one of the first warning signs I saw that trouble was brewing in the secondary mortgage market. My colleague at the Home Defense Program, Karen Brown, and I partnered with private attorneys and Georgia's Attorney General to combat Fleet, coordinating our cases and strategies. The Attorney General eventually won a 115 million dollar judgment against Fleet, while private attorneys won multiple class action settlements against Fleet Finance. The Home Defense Program obtained excellent settlements for nearly 50 homeowners, and brought national media attention to Fleet's practices, including a segment on 60 Minutes. As a result of these events, Fleet Finance was forced out of business.

After the Fleet Finance debacle, we assumed that major national banks would want to stay away from subprime, predatory mortgage lending. We were sadly mistaken. In the mid to late 1990s, nearly every major national bank jumped into the subprime market in an abusive and destructive way.[1] For example, the Home Defense Program began taking on a high volume of cases involving The Associates, a finance company owned by Ford Motor Company. The Associates was eventually the subject of a segment on ABC's Primetime Live regarding its abusive mortgage lending practices, which featured one of the Home Defense Program's client-homeowners. Ford attempted to distance itself from Associates by selling it. To our dismay and astonishment, Associates was eventually purchased by CitiGroup and eventually merged with CitiFinancial, the finance company arm of CitiGroup. Other banks, like First Union, Chase, Wells Fargo, and Washington Mutual opened subprime lending subsidiaries, purchased freestanding subprime lenders to fold into their business, or else made subprime mortgage loans directly out of their bank branches. This happened despite the fact that there was a clear pattern emerging regarding the life cycle of abusive standalone subprime lenders: they popped up, reaped huge profits for several years, and then collapsed because their predatory business model either proved unsustainable or else attracted the attention of state attorneys general or federal regulators like the FTC. This pattern has repeated itself at the national banks in the last two years, as they have been forced to shutter most of their subprime subsidiaries due to massive losses.

The entry of the national banks into the subprime mortgage market coincided with two other developments that helped cause the current meltdown. First, while many of the predatory mortgages we had seen in the 1980s and 1990s had outrageous points and fees and interest rates that would make credit card companies blush, the loan amounts were often small and so the payments were still "affordable." This meant that while the homeowners lost equity and were grossly overcharged and taken advantage of, they still generally did not lose their homes. However, in the late 1990s and early 2000s, we began to notice that subprime mortgage refinances were being made with higher and higher loan balances and, accordingly, higher and higher monthly payments. This increase in monthly payments drastically heightened the risk that homeowners would lose their homes to foreclosure and eviction.

Second, like the Fleet loans, many of these loans were securitized and sold onto the secondary market. As demand for these securities grew, propped up in part by the high yields gained from the comparatively high interest rates, the investment banks took notice. For example, Lehman Brothers began underwriting securities based on loans originated by First Alliance Mortgage Company. Eventually Lehman began acting as a lender for First Alliance, capitalizing it so it could make more and more abusive, predatory loans. This happened despite the fact that internal Lehman investigations

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[1] *See Banks Take Over Subprime*, National Mortgage News, November 15, 1999, at 1

revealed that First Alliance had extremely suspect lending and sales practices.[2] First Alliance eventually and inevitably collapsed in 2000. This sour experience did not dissuade Lehman and the other major investment banks from jumping feet first into the subprime business.

As the national banks, investment banks, and freestanding subprime originators churned through millions of subprime loans in an effort to fill pools of mortgages for the purposes of issuing securities, they ran into a problem in the early 2000s: financially eligible borrowers who could afford a mortgage were becoming increasingly scarce. Potential customers for subprime loans already had mortgages, and in fact were often mortgaged to the hilt. Instead of backing off, these institutions plunged ahead, with disastrous consequences. They made a deliberate decision to continue making mortgages, even when it was clear that there were few people left who had the ability to pay such a mortgage. The fact that unaffordable mortgages inevitably lead to default and foreclosure was apparently of no concern to them. Because most of these mortgages were being securitized, the originator was often out of the picture within weeks, if not days, while the parties investing in and holding the loans falsely claimed they had clean hands and no legal liability as assignees. This combination – originators who retained no stake in the loans, and assignees who could claim immunity to lawsuits regarding the predatory mortgages they held – has proven disastrous. In fact, the subprime securitization system was purposely designed to disperse risk in a way that immunized investors from the legal consequences of making the unaffordable mortgage loans that were the foundation of the securities they invested in.

To make unaffordable mortgage loans seem affordable, originators began designing and using so-called "affordability" products like adjustable-rate mortgages, or "ARMS," where the interest rate changed; hybrid-ARMs where the rate was fixed at a teaser rate for 2 to 3 years and then steadily and inevitably went up; interest-only loans where the borrower made only interest payments for 5 or 10 years (resulting in payment shock when the interest-only period expired); and finally, the Frankenstein of loan products, Pay-Option Arms, which combined adjustable interest rates, interest-only payments, and negative amortization. These mortgages included four levels of permissible payments with intention of deceiving borrowers into believing they could afford the mortgage at the lowest payment levels. However, these payments that would often double, triple, or even quintuple after only a few years.

Originators also intentionally threw underwriting out the window, progressing from low-documentation loans, to no-documentation loans, to stated-income loans. In virtually every case we have seen, borrowers would provide proof of their correct income, which was duly ignored. In fact, we began seeing the following distinct features in the loan applications of the Home Defense Program's clients. First, loans were being made with the income on the applications falsified, without the borrower's consent or knowledge. Second, loans were being made with no income on the application at all, despite the fact that the borrower provided correct income documentation. Finally, many loans showed the borrower's correct income – yet the loan was still entirely unaffordable on its face.

[2] *In re First Alliance*, 471 F.3d 977 (9th Cir. 2006).

Closing attorneys, settlement agents, and even loan officers right out of bank branches would conduct shotgun closings, racing through documents to prevent borrowers from discovering abusive features or irregularities. In those cases where our clients realized they had an adjustable rate or other non-fixed mortgage, they were promised that they could refinance before their payments reset. These promised refinances never happened, leaving homeowners stuck in an unaffordable mortage.

The increasing demand for these mortgage-backed securities spurred the development of abusive lending practices and the deterioration of underwriting standards. As a result, all of the parties on the securitization chain saw huge profits – the originating lenders by charging high closing costs for terrible loans, the investment banks and national banks by underwriting and sponsoring the pools, and the ratings agencies by giving investment-grade ratings to subprime mortgage-backed securities that they failed to investigate.[3] Perhaps the worst development on the investor-side of things was the growing involvement of Fannie Mae and Freddie Mac. These once-venerable institutions, which had once prided themselves on providing capital for fair, affordable home purchase mortgages, began purchasing immense amounts of subprime mortgage-backed securities. For example, in a 6-month period in 2004, they purchased nearly 61% of Ameriquest's securities, nearly 40% of Countrywide's securities, and nearly 64% of Fremont's securities.[4] All three of these companies have been widely recognized as among the most reckless subprime originators. By purchasing these companies' securities, Fannie and Freddie provided capital to these companies allowing them to continue their predatory lending practices. In 2000, I testified before the United States House Committee on Banking and Financial Services, warning that if Fannie and Freddie were permitted to purchase large volumes of subprime securities that they risked their own collapse and the health of the nation's economy.[5] I took no satisfaction in watching those fears come true last summer.

Against this backdrop, two key events occurred in the early part of this decade that contributed to the scope of the crisis in Georgia. First, lenders and other players in the mortgage finance industry (including national banks and the rating agencies) gutted a Georgia law that would likely have ameliorated much of the crisis' impact in Georgia. Second, federal regulators utterly and embarrassingly not only abdicated their responsibility to oversee national banks and their subsidiaries – they actively preempted the application of consumer protection laws to national banks. These regulators blithely asserted that national banks were not the problem.[6] However, as time and study has made clear, national banks and their subsidiaries made huge amounts of subprime loans that were unaffordable and doomed to foreclosure.[7]

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[3] Mara Der Hovanesian, *Pointing a Finger at Wall Street*, BUSINESS WEEK, August 11, 2008 at 80.
[4] *See GSE Appetite for Subprime MBS Classes Remains Stout*, INSIDE B&C LENDING, July 26, 2004, at 3 (attached as Exhibit A).
[5] *Hearing Before the H. Committee on Banking and Financial Services*, 111[th] Congress (2000) (testimony of William J. Brennan, Jr.) (*available at* http://financialservices.house.gov/banking/52400bre.htm).
[6] Robert Berner and Brian Grow, *They Warned Us*, BUSINESS WEEK, October 20, 2008, at 38.
[7] Who's Behind the Financial Meltdown: The Top 25 Subprime Lenders and Their Wall Street Backers, May 6, 2009 (*available at* http://www.publicintegrity.org/investigations/economic_meltdown/the_subprime_25/full_list).

These events came about after the initial passage of the Georgia Fair Lending Act ("GFLA") in 2002. In 2000, in response to the increasing presence of abusive lending in Georgia, advocates, led by State Senator Vincent Fort began pressing for the passage of a strong anti-predatory lending law along the lines of the first predatory lending law passed in North Carolina in 1999. Although no bill was passed in 2000 or 2001, the cause was taken up by then-Governor Roy Barnes, a longtime consumer advocate, in 2002. The Home Defense Program and Senator Fort were intimately involved in Governor Barnes' push for a strong bill, and in 2002 GFLA was passed and immediately hailed as the strongest anti-predatory lending law in the nation. This law prohibited abusive lending practices, and included a strong assignee liability component, making the ultimate holder of the mortgage liable for violations of the law. By exerting discipline on the secondary market through assignee liability, Georgia advocates hoped to drive the worst predatory lending practices out of the state.

To the discredit of the national banks, federal regulators, rating agencies, and other financial institutions, much of this good was quickly undone. In 2003, under a flurry of intense lobbying and a blizzard of checks,[8] GFLA was gutted, with many of its strongest provisions removed or substantially weakened. National banks and subprime originators descended on the Georgia capital, with Ameriquest playing a major role. At one point, Ameriquest withdrew from Georgia mortgage lending and claimed they would not come back. Quite frankly, the state would have been far better off if they had stuck to that promise. To this day, many of the worst loans we see are Ameriquest loans.

Also contributing to the weakening of GFLA was the rating agency Standard and Poors. Standard and Poors claimed that because of GFLA's assignee liability provisions, they would stop rating securities which included any Georgia loans. This is of course one of the same ratings agencies that gave investment grade ratings to deeply flawed subprime mortgage-backed securities that were filled to the brim with abusive loans. At the same time they abandoned their responsibility to examine the securities they were rating, they were actively seeking to weaken consumer protection laws. Of course, at this juncture, Standard and Poors knew that it stood to make hundreds of millions of dollars rating subprime mortgage-backed securities in the future.

At that point, I must admit, we thought the worst was over. Then the Office of the Comptroller of the Currency and the Office of Thrift Supervision stepped onto the scene. Again to our dismay, in July 2003 John Hawke, head of the Office of the Comptroller of the Currency, assisted national banks in their efforts to take advantage of the subprime market by ruling that GFLA did not apply to national banks or their subsidiaries.[9] Given that much of the subprime and predatory lending flowing from national banks was being done by their subsidiaries, these preemption determinations had a significant impact. Far from being leaders in the provident extension of credit, national banks were now free to stoop to the level of the lowest common denominator.

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[8] *See* Glenn R. Simpson, *Lender Lobbying Blitz Abetted Mortgage Mess*, WALL ST. J., Dec. 31, 2007 at A1.
[9] Robert Berner and Brian Grow, *They Warned Us*, BUSINESS WEEK, October 20, 2008, at 40.

Conclusion

The financial industry destroyed much of the good stemming from the initial passage of GFLA. Unwise and imprudent federal preemption further weakened the state of consumer protection in Georgia. Today we can all see the effects. More than 12,000 foreclosures were scheduled for the Atlanta metro area in October, and more than 100,000 homes are expected to be scheduled for foreclosure this year – shattering the record set last year.[10] Major financial institutions have collapsed or been severely weakened by their reckless business practices, countless jobs have been lost, and neighborhoods have been left abandoned and empty. Unfortunately, it appears that lessons have not been learned. My understanding is that the latest version of the Consumer Financial Protection Agency bill, an urgently needed reform, has provisions allowing for federal preemption of state laws which seek to prohibit consumer abuses. It is my hope that Georgia will, in the future, once again be at the forefront of consumer protection. That hope is an empty one if the hard work of Georgia advocates, legislators, and citizens can be undone by federal regulators funded by the very institutions they regulate. Furthermore, reform of lending practices is urgently needed at the federal level, to provide a baseline of responsible underwriting in the extension of credit to consumers.

Finally, it is most disturbing to see that our clients, most of whom are facing foreclosure as a direct result of the reckless behavior of the financial institutions that created the subprime mortgage debacle, are being offered no or minimal relief. These national banks and investment banks manufactured and then, ironically, purchased the subprime-mortgage backed securities that are now known as "toxic assets." In short, they brewed a poison and then drank it. They have subsequently driven the economy to the brink of disaster and been the recipient of trillions of dollars of taxpayer money. While they eat at the trough of federal tax dollars, homeowners have been offered a weak modification program called the Making Home Affordable Program that has no mechanism for enforcement and which fails to recognize and address the predatory lending abuses perpetrated over the last decade. The disparity between these two outcomes is as telling as it is disturbing. Banks have been taken care of, while millions of homeowners are left to face foreclosure and eviction.

Thank you for your consideration of these comments.

[10] Michael E. Kannell, *Metro Atlanta Foreclosures Swamp Last Year's Record*, September 16, 2009 (*available at* http://www.ajc.com/business/metro-atlanta-foreclosures-swamp-140045.html)

EXHIBIT A

lin, Homecomings Financial, IndyMac, and Option One.

Also covered by the survey are broker opinions on lender A-, 80-10-10 and 80-20, reduced-rate and low downpayment programs. Other topics covered by the survey include the reasons that brokers drop major wholesale lenders and why they choose not to use well-known lenders for their customers.

For more information on the survey report, contact John Campbell at Campbell Communications, (202) 363-2069.✦

GSE Appetite for Subprime MBS Classes Remains Stout

Fannie Mae and Freddie Mac remained hungry for subprime MBS classes during the first half of the year - and issuers were ready to fill their plates, a new *Inside B&C Lending* analysis reveals.

Clearly, the government-sponsored enterprises have become a key part of the strategies of most major subprime securitizers - a fact evidenced by the ever-growing percentage of their business that issuers are earmarking for delivery to one or both of the secondary market giants.

Highlighting that trend is a surge in issuance of so-called "GSE classes," or subprime MBS tranches that consist of loans with balances under the $333,700 conforming loan limit.

According to data compiled by *Inside B&C Lending*, 25 issuers - many of them first-time GSE sellers - completed deals containing such classes during the first half of the year. Combined, those firms delivered $73.44 billion in MBS classes, or 50.9 percent of their total production, to Fannie and Freddie. That was up markedly from the same period in 2003, when the firms combined to deliver just 39.7 percent of their production to one or both of the GSEs.

Overall, GSE classes accounted for 47.2 percent of the record $159.40 billion in subprime MBS issued through the end of June, up from 33.6 percent during the same period in 2003. On average, the top issuers grew their GSE production by a stout 157.8 percent during the period, with most major players at least doubling their volume.

Subprime Issuers by GSE Volume in 2004

(Through June 30, 2004 - Dollars in Millions.)

		2004			6 Months-2003			GSE Change
Rank	Issuer	GSE	Total	% GSE	GSE	Total	% GSE	2003-2004
1	Ameriquest Mortgage	$11,435.2	$18,578.0	61.6%	$4,474.6	$9,770.7	45.8%	155.6%
2	Countrywide Financial	$7,632.0	$20,349.9	37.5%	$113.3	$6,003.0	1.9%	6636.1%
3	Lehman Brothers	$6,921.9	$12,827.5	54.0%	$3,030.4	$6,341.1	47.8%	128.4%
4	Option One	$5,642.2	$8,795.8	64.1%	$4,488.0	$8,594.8	52.2%	25.7%
5	Washington Mutual	$5,470.0	$8,851.1	61.8%	$0.0	$4,148.7	0.0%	NA
6	New Century	$5,457.8	$10,598.9	51.5%	$4,737.9	$8,338.7	56.8%	15.2%
7	CS First Boston/ABSC	$4,609.2	$7,834.1	58.8%	$3,103.5	$6,264.5	49.5%	48.5%
8	First Franklin	$3,797.0	$7,468.1	50.8%	$1,163.0	$2,172.8	53.5%	226.5%
9	Fremont Investment	$3,418.8	$5,333.3	64.1%	$1,645.7	$2,224.0	74.0%	107.7%
10	WMC Mortgage	$3,220.4	$5,311.2	60.6%	$1,238.4	$2,369.0	52.3%	160.0%
11	Morgan Stanley	$2,831.9	$6,840.0	41.4%	$332.0	$1,086.9	30.5%	753.0%
12	GMAC-RFC	$2,648.7	$8,989.5	29.5%	$2,675.0	$6,450.6	41.5%	-1.0%
13	NovaStar	$1,632.0	$3,306.6	49.4%	$1,076.2	$2,800.0	38.4%	51.6%
14	Bear Stearns	$1,484.9	$3,697.0	40.2%	$0.0	$0.0	NA	NA
15	Fieldstone Mortgage	$1,354.3	$2,506.8	54.0%	$0.0	$0.0	NA	NA
16	Wells Fargo	$980.2	$1,422.6	68.9%	$0.0	$316.1	0.0%	NA
17	CDC Mortgage Capital	$788.0	$1,645.1	47.9%	$0.0	$1,448.5	0.0%	NA
18	Merrill Lynch	$669.2	$1,100.0	60.8%	$0.0	$528.2	0.0%	NA
19	Accredited Home Loans	$603.0	$1,382.9	43.6%	$0.0	$694.3	0.0%	NA
20	Centex	$588.0	$2,850.0	20.6%	$179.3	$1,300.0	13.8%	227.9%
21	IndyMac	$563.6	$791.8	71.2%	$0.0	$0.0	NA	NA
22	Finance America	$483.0	$917.6	52.6%	$0.0	$0.0	NA	NA
23	Equifirst	$448.8	$1,023.7	43.8%	$0.0	$0.0	NA	NA
24	Homestar	$399.0	$446.5	89.4%	$0.0	$0.0	NA	NA
25	Goldman Sachs	$361.2	$1,362.2	26.5%	$227.6	$864.5	26.3%	58.7%
	Total for top 25 Issuers:	**$73,440.3**	**$144,230.3**	**50.9%**	**$28,484.9**	**$71,716.3**	**39.7%**	**157.8%**
	Total All Issuers:	**$75,244.9**	**$159,395.2**	**47.2%**	**$29,348.2**	**$87,339.0**	**33.6%**	**156.4%**

Source: Inside B&C Lending.

STATEMENT OF TIA MCCOY

Ms. MCCOY. Thank you, Chairman Kucinich and members of the committee. Again, my name is Tia McCoy and I work with Resources for Residents and Communities, which is a 20-year old community development corporation here in Atlanta providing the groundwork when it comes to foreclosure counseling. We do meet with our families face to face and have an opportunity to hear hundreds of stories around how these things have happened.

I did hear Congressman Westmoreland state in his opening remarks how foreclosure is destroying wealth. For us, and from where I sit, that is probably one of the least things we are dealing with. What we are finding is that this is destroying lives, it is destroying marriages, it is destroying families, it is destroying health as well. Where I sit, again, yes, we lost our equity and we lost our wealth, but that is one of the least things that we are dealing with when it comes to foreclosure counseling.

For the families that we are seeing as it relates to foreclosure counseling, we are working with them not only 90 days, but 6 months, 9 months, 12 months and we are still waiting to get answers many times from these services around what is taking so long in getting an answer to get a resolution for these clients.

When we talk about foreclosure counseling, one of the unfortunate things is there is a lack of public awareness of the free services that are available. There are many HUD-approved counseling agencies here in Atlanta that provide free foreclosure counseling where we can step in and be an advocate and help mitigate the losses. However, with our limited resources, many clients find themselves going to agencies where they charge fees, and they are making promises. I am sure you have heard about the scams that are going on. And when the client gets there, they spend their last resources hoping to save their home. These agencies are not being able to respond and they find themselves coming back to non-profits like RRC to get help, starting the process all over again.

There definitely needs to be more awareness made around the services that are available from neighborhood organizations as well as HUD-approved counseling agencies. And again, the services that are provided are free.

Working with services, that is a challenge that we are finding inhouse. Many efforts are being made but not enough is being done at this point from what we are seeing. We are still finding it taking a long time to get a resolution. It should not take 6 months or 9 months to get an answer from a service as to whether they are going to modify a loan. It should not require a housing counsel or a client having to resubmit information three and four times over and over again, when the services will respond at times saying they received documents and at other times, they will respond saying they never received the documents. And we may even have documentation in file saying that they received it, but then again, they will turn around and say no, we have not received it.

We are very concerned about the services and who they are hiring to respond to this crisis. Are these individuals qualified. Maybe that is something you all can talk about or discuss with them as they are beefing up to handle this demand that they are having to face. But are the staff members qualified and able to actually handle the work.

There have been times where I have even called services and had individuals in my office and you have people on the line not even be able to calculate income. So here I am a counselor experienced at doing this, you cannot even imagine what a client would go through who is not even used to doing this. And having to get the run-around time and time again, especially when it comes to having to resubmit documents over and over.

So we talk about the concern and the number of foreclosures that will occur tomorrow. But how many of those individuals actually picked up the phone and called the services to get the run-around. And here we are experienced counselors and we get that run-around as well oftentimes. So we do find a challenge out there working with services to getting direct answers.

We would like to see that there would be a more systematic way in which all the services would operate. We know there is the Making Home Affordable Program and there are still a limited number of services that are a part of that plan. Everyone is not required to participate, so what happens to all of the other services that are out there and the clients that have to deal with those services who do not have to modify loans, or at least that is what we are told. They are not having to modify or make adjustments. So there are still a lot of other families that are being affected who may not be eligible for the Making Home Affordable product.

Again, as I stated, one of the biggest difficulties we are finding and challenges is that in working with services, we are experienced and we have the patience, but what about the clients who are calling in trying to do what they are told to do, contact your lender. That is what they are told and instructed to do. So they are doing that, but they are not getting a response either because the staff is not aware of how to provide counseling or they are reading from a script that they are told to read from, which is not giving them an answer.

Most recently, we just participated in the Hope Now event this past week and had a client that just left a meeting with their lender, SunTrust, and came and sat with us and we are like, well, why are you meeting with us, you just met with your lender. They had no idea what the lender told them. They were like all the lender said was give me your pay stubs and your documents and we will get with you later. So they came and sat with us so that we could give them further instructions as a housing counselor. This happens time and time and time again. Money and energy is being put into all these major national events, but what is the actual outcome. You know, is it just for someone to get their name out there to say oh, we did something. But what is the actual outcome of having all these events?

So as a counselor on the ground doing the work, you know, if we could get more participation from all the services, if it was required, as stated earlier, that all the lenders participate and have a systematic process in modifying loans, that would be great. And, you know, be mindful of the fact that they need to answer questions and respond to clients, because it is not about the wealth, it is about the lives that are being affected.

Thank you.

[Applause.]

Mr. KUCINICH. Thank you very much, Ms. McCoy, for your important testimony.

The Chair recognizes Mr. Immergluck.

[The prepared statement of Ms. McCoy follows:]

Testimony
Tia McCoy, HomeOwnership Center Manager
Resources for Residents and Communities of Georgia

Submitted to the

Domestic Policy Subcommittee
Oversight and Government Reform Committee
Committee Room 450 of the Georgia State Capitol Building
206 Washington Street Southwest
Atlanta Georgia
Monday, November 2, 2009
11:30 a.m.

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

Chairman Kucinich and Members of the Committee, thank you for the opportunity to testify today. My name is Tia McCoy. I am the Manager of the HomeOwnership Center for Resources for Residents and Communities or RRC, and have been in this position with RRC since 2006. RRC is a twenty year old non-profit, community development corporation. We were originally founded to revitalize the Reynoldstown community in Atlanta and have since expanded to offer our services to the southern metro Atlanta area. We are a HUD certified housing counseling agency and a member of the national NeighborWorks America network.

RRC's Foreclosure Prevention Services

RRC's HomeOwnership Center participates in the National Foreclosure Mitigation Counseling program through the Department of Housing and Urban Development (HUD). Clients find out about our services from a variety of sources, including the national HOPE campaign, which provides a telephone hotline for families at risk of losing their homes. The primary method by which clients find us is word-of-mouth from someone else who has received assistance.

Our housing counselors provide one-on-one counseling services, with the majority of their counseling conducted in face-to-face sessions with the client. The counselor quickly assesses whether or not there is a potential for resolution for the foreclosure situation and provides the client with their options. Clients that move into the resolution process typically require an intensive amount of counseling with the counselor making multiple calls to the lender and others regarding the documentation needed to resolve the situation.

Assistance is in the form of a loan modification, refinance, repayment plan, special forbearance, short sell, rescue funds or some other option offered by the servicer/lender. Due to the increased pressure and initiatives such as Making Home Affordable, servicers are starting to become more responsive, however it still may take 90 days or more to obtain a resolution from the servicer.

Our foreclosure prevention services are available to homeowners of all income levels, with an emphasis on low- to moderate-income and minority households. Clients seeking foreclosure prevention assistance come to us from across the southern metro Atlanta area, with the bulk of these clients coming from Fulton and DeKalb counties. Since initiating foreclosure prevention services two years ago, RRC has served about 300 clients, with about 85% of these clients being below 80% of the area median income and 93% being minority households. Previously we found that people threatened with foreclosures were frequently dealing with predatory loan situations or interest rate adjustments. Now, we are seeing more clients who have lost jobs or their employment has changed and their income is lower.

Public Awareness of Foreclosure Prevention Services and Scams

There is a great need for foreclosure counseling, as people are not succeeding in navigating the servicers documentation processes and communication problems on their own, but there is still limited public awareness about the existence of free foreclosure prevention services. There still is a stigma or embarrassment about seeking help, but that has lessened in recent months as public awareness campaigns have increased. RRC has conducted a variety of outreach efforts to inform homeowners about our free services, and we have benefitted from the recent support of 5 AmeriCorps Members/VISTAs with this effort. We utilize community presentations, doorknockers on homes in highly impacted communities, social networking on the Internet, free newspaper postings, and sharing flyers through our partner organizations.

Some of our clients were previously clients of for-profit companies whom they paid for foreclosure assistance. These companies promised that for a fee they would be able to help them resolve their situation. These clients came to us because the for-profit companies were not able to assist them with a modification. Our services are free to the clients, and we have been able to successfully obtain loan modifications for these homeowners. Although many of our clients have seen these ads by for-profit companies or been directly approached, only a few have been taken advantage of – typically those who are the most desparate. The media's recent stories about foreclosure scam situations do seem to be raising awareness.

Working With Servicers

Our housing counselors are still finding that the mortgage servicers still do not have the systems and staffing in place to effectively handle foreclosure resolutions. The servicers still seem to be overwhelmed with the volume.

The typical counseling situation is that the counselor will put the documentation together with the client, fax the documentation to the servicer, and then call to confirm that the servicer has received it. Then the counselor will call again a couple of days later to check on the progress. The servicer will state that they do not have any documentation, and the counselor will refax the information and confirm again.

When documentation is sent in, it seems that the servicer's staff do not enter the information into the computer system or the computer systems are not set up effectively to track the foreclosure resolution process. When the counselors call the servicer, they almost never are able to talk to the same person that they spoke with previously. A recommendation would be to encourage servicers to put a point person or team of people responsible for specific cases – so a counselor or client could know who is assigned to their case.

A current example of this situation – Our counselor assisted an elderly couple with their documentation. The servicer, Saxon, sent a letter confirming that they had received all the documentation that they needed, and they were just waiting on a property appraisal. The servicer told the client to call back in two weeks and the servicer would have an answer. The counselor and client called back in two weeks, and the servicer stated that they did not have any documentation. The counselor faxed the letter to the servicer where the servicer had stated that they had indeed received all the documentation. The servicer still insisted that they did not have any documentation. The counselor resubmitted everything and the processing of the information had to start over. The counselor was able to get the foreclosure date pushed back one month to December 1, 2009, while the couple is still awaiting the processing of their documentation.

Another example of the servicers' limited capacity is that due to the volume they still seem to be only dealing with the most urgent cases. If a homeowner is current on payments now but it is clear that they are going to fall behind due to a loss of income, it is very tough for them to get a response no matter how persistent they are. Or if they are only one or two months behind, their cases get pushed to the background even if it is evident that they are going to fall further behind.

Many of the servicers do not seem to be investing in hiring qualified staff or training the staff that they do hire for these front line foreclosure resolution positions. The staff who answer the telephones for the servicers frequently understand very little about mortgages or foreclosures. They typically sound like they are reading a script and are unable to answer any questions. For example, I was on a three way call with a client (who happened to be a State of Georgia elected official) to a servicer, and the staff person was attempting to calculate the client's income, but it was obvious that he did not know how to do it. He was responsible for triaging the cases coming in, but had not even been trained in income calculation. I asked how long he had worked there, but he refused to answer me. Some servicers are better than others. When you call, you will get a staff person who will actually examine the case and the notes from the last conversation about the case and be able to think through the situation with you. However, this is rare.

The servicers' consider the clients' documents to be out of date after one month. Due to the servicers' slow processing of documents, the counselors and clients have to work together to update the documents monthly and usually resend them several times during the period they are being processed. Clients have to be extremely persistent and determined.

The clients who call the servicer regularly and are extremely proactive and involved get a resolution more quickly. Those who create the most consistent noise are able to get help, and the other cases seem to get pushed into the background. Consider what this means for homeowners who are less educated and less knowledgable about how to work through a multi-layered, confusing organization. I worked with a married couple in their 60's who had very limited education and could not understand the letters that they were receiving from the servicer. The husband was working and the wife was receiving disability, but her payments were erratic. It took us 8 months working together to get a loan modification. When we received the modification, the servicer went out of business. The loan was sold, and the new servicer called and notified them that it would not honor the modification. I was able to clear up the issue, but there is no way they could have worked through all these complicated communications on their own.

Even when a modification is successfully completed, the servicers frequently will not directly communicate that to the client, the client has to pursue the information. On last Tuesday, I was on a 3-way call with a client and servicer to check on the status of their documentation, and the servicer informed us, "Oh we got your workout done on October 1st", and no one had informed the client. Please recall that our clients are in a financial crisis and struggling in other aspects of their lives as well. The servicers current processes seem to require time and energy from the client that is almost the equivalent of a part-time job, while the client is simultaneously often trying to juggle a real job, family and other financial issues.

A current example of this – We have a client who was out of work for over a year and has a foreclosure sale scheduled for November 3rd. She recently obtained a new job and can now afford her mortgage. Our counselor called Bank of America together with her, providing the evidence of the new job, to try to get the foreclosure sale date pushed back so that a resolution could be worked on. The first 3 people that the counselor called at Bank of America said that there was nothing that they could do – despite the evidence that she could now make payments. Finally, on the fourth call the counselor found someone who said, "I'll try to get the date pushed back, be sure I have all the documents." The client is in training this week in Las Vegas for her new job. She is trying to step out of work training sessions and make calls to Bank of America together with our counselor to get the foreclosure sale date pushed back. Why does it so difficult to communicate with the servicer in these situations to obtain a resolution that will obviously be better for all involved than a foreclosure sale?

We have also found that when the servicers do send communications to the clients, they are often very unrealistic about what they expect. For example, a client will received a loan modification in the mail on one day, and the letter will state that the servicer expects notarized documents and a check by the next day. It might take the servicer 6 months to process the homeowner's documents, but then they want information back in 24 hours. Although a person may be delinquent on a loan, they are frequently still working a job and trying to take care of family. With no notice, they are expected to take off work, get documents copied and notarized and overnighted back to the servicer. The clients are at the mercy of the servicer and don't dare not respond as directed.

A primary question we have regarding these difficulties communicating and working with servicers is that we know that servers have the capacity to efficiently make modifications when they focus their organization on it – why can't it happen more systematically on a regular basis? We have participated in big foreclosure events with servicers where hundreds of clients are assisted daily. At these events, clients are assisted face-to-face and receive concrete information and quick solutions. Clients will drive across several states to come to these events because they know they can get assistance. Why can't better internal systems be established at servicers so that clients can be assisted effectively each day over the phone?

Making Home Affordable Program

The publicity around the Making Home Affordable Program has increased public awareness that resolutions are possible and encouraged clients to seek assistance. However, with the Making Home Affordable Program, we are finding that clients are receiving trial modifications of typically 3 months from the servicers, but then these trial modifications are not being turned into permanent modifications. When the date for conclusion of the trial modification arrives, and the client or counselor asks what is next, there is no response. The client continues to make trial modification payments without knowing their status.

One benefit to the Making Home Affordable Program has been that there is more information available to a client online. Clients can go online to see what the eligibility criteria are and determine if their loan is serviced by Freddie Mac or Fannie Mae. They can also find out if their mortgage is under the 31% of gross monthly income criteria. We are finding that the servicers are disregarding one aspect of the criteria. When credit cards are not being paid, they are not supposed to be included in the debt ratio. The servicers are denying homeowners participation due to their debt ratio being supposedly too high, and the counselors are having to resend the information again and again with notes describing the credit card situation.

Foreclosure Prevention Counselors

In this foreclosure crisis situation, there has been very little attention to the trauma that is being handled by foreclosure prevention counselors and the stress that they are having to manage. Our counselors have dealt with clients whose financial situations have resulted in them threatening suicide, getting divorces, and having serious health problems. The counselors deal with one negative story after another all day long and are able to provide clients with very little information about their prospects for saving their home. There needs to be training and support for counselors on handling this stress. What would the impact of foreclosures on our society be without the assistance of these counselors? The number of foreclosures and the costs to our country would certainly be much greater.

Community Stabilization

Although the focus of this testimony is on the foreclosure counseling and prevention process, I also want to mention the importance of foreclosure outreach in community stabilization. At RRC, we think that it is crucial that Neighborhood Stabilization Program initiatives that are focused on acquiring, rehabbing and putting to positive use previously foreclosed properties are also accompanied by foreclosure prevention outreach to protect neighboring homeowners from entering the same situation. Community stabilization efforts need to include community building, community education and foreclosure prevention in addition to physical change. This is our focus as we work on implementing our own Neighborhood Stabilization Program grant.

Conclusion

Once again, thank you for this opportunity to testify. I would be happy to try to answer any questions that you might have.

Attachment
Client Case Example

Below as an attachment, we have included a full case example from a client. This client worked to obtain a resolution for more than 12 months. To finally obtain a loan modification for this client we had to contact a supervisor at Home EQ and threaten legal action by copying Legal Aid's name on the letter. Much of this case example is from the client's own notes, when they were providing a description of their hardship situation. Some names and confidential information have been removed.

> *For several years leading up to my parents' deaths in 2004 and 2005, they stayed in my home. As their health declined, I took less responsibility at work and also a reduced income in order to care for them. After my parents' death, the tenants in my rental property vacated. Eventually, I was able to get a new tenant at a reduced rental charge while I conducted some repairs on the property. It was very difficult to catch up with the loss of rental income and my parents' contributions to the household. In addition to the*

challenges presented by loss of rental income, there were several mortgage interest rate changes and payment increases that furthered my inability to get and stay current.

12/13/07 Received a collections letter from Morris, Schneider, Prior, Johnson & Freeman regarding HomeEq Loan #________. Payoff: $132,370.35.

12/21/08 Received letter from HomEq Servicing with tentative scheduled foreclosure sale date of 02/05/08.

12/28/07 Foreclosure letter, sale date 2/4 from Morris, Schneider, et al

02/04/08 Paid $9954.96 to Morris, Schneider to stop foreclosure. Signed and recv'd reinstatement of loan. $8700 Cashier's Check from Bank of America

03/18/08 Recv'd a collections letter from McCurdy & Candler regarding HomEq Loan #______. Payoff: $143,290.63. No notification from HomEq.

03/19/08 Contacted McCurdy Law Firm. Explained loan had just been taken out of foreclosure in February. Per Ms. P. of McCurdy & Candler, only the mortgage company could change any proceedings. Contacted Morris, Schneider firm. Per agent, payments were sent to HomEq via FedEx and signed for by HomEq on 2/7/08.

03/25/08 Foreclosure letter from McCurdy & Candler, sale date 5/6. Contacted HomEq. No payment received. Unable to stop sale. Late March – Mid April Faxed to Mr. G. (HomEq agent) copies of $8700 cashier's check #____ and MoneyGram money orders (#R______, #R____ in the amount of $500 each and #R____ in the amount of $254.96) used to reinstate loan on 2/4 at Morris, Schneider office. Several conversations with Mr. G. (HomEq agent) who informed me payment had been sent to HomEq North Carolina office instead of California. Still unable to locate payment. Informed by Mr. G that all interests and fees stopped while account placed in research status. Also told payments could not be received until resolved.

Mid April HomEq (Mr. G) requested me to process stop payment and file loss claims on cashier's check and money orders used for February 4 payment to Morris, Schneider. Informed by Bank of America that loss claim could not be filed on $8700 cashier's check before 90 days after purchase (5/4/08) because value exceeded $1,000. MoneyGram agent emailed forms to me to file claim which could take up to 60 days to process.

05/05/08 Filed first loss claim for MoneyGram money orders. Fees will be deducted from face value of money orders.

05/09/08 Filed claim for lost/stolen official check at Bank of America, Fulton Industrial Branch, Atlanta, GA. Told to expect refund in 10-14 days.

05/23/08 Revisited Bank of America branch. Rep unable to locate claim. Said he would call San Antonio branch that handles claims, then get back with me.

05/27/08 Refiled loss cashier's check claim. Another 10-14 days for processing. Mid June Received Privacy Statement from HomEq.

06/15/08 Called bank to inform still no refund received. Told to come in and local branch would cut a check.

06/17/08 Replacement $8700 Cashier's Check #0980346 issued for check lost by HomEq. However, still no refund from MoneyGram.

07/01/08 Started credit counseling with Reynoldstown Revitalization Corporation (an affiliate of HOPE (Note: now known as Resources for Residents and Communities, name change 11/2008). Attended workshop. Said they would contact HomEq to determine possibility of reworking loan – possible reduction in interest and/or payment. Advised to hold $8700 cashier's check to determine what could be done. Also told this could be a 30-45 day process, so be patient. Also necessary for me to contact HOPE Line before Reynoldstown could proceed. Completed the HOPE Line process

07/25/08 Received Counseling Summary from HOPE Line. Late July Received call from HomEq agent Mr. G; informed him of credit counseling and still no refund from MoneyGram. He said there was no documentation of contact by HOPE or any other agency.

07/31/08 Lft message for Ms. Tia McCoy at Reynoldstown agency to please call with update on my file.

08/08/08 Visited Reynoldstown office to get status of my file. Ms. Tia McCoy in class, but said she or Ms. Sharon would contact me week of 8/11.

08/13/08 Ms. Sharon called to say they needed proof of income to proceed. Requested proof of income from employer, since payroll stubs are not received with checks. Company has changed payroll processes, so info not immediately available. Wk of 8/20 Received call from HomEq agent. Explained, I was working with agency and had been in touch with Mr. G. Called MoneyGram to determine status of claim. Informed that there is no way to track mailed claims. The money orders had not been cashed. Operator said if claim submitted via fax with indication payment involved mortgage payment, processing would be expedited with $18 fee per money order. Resubmitted claims for lost money orders via fax.

08/22/08 Received collection letter from McCurdy & Candler, payoff $152,164.60.

09/04/08 Received call from HomEq agent concerning my intentions for handling loan. Again, explained above details.

09/08/08 Received refund checks from MoneyGram for money orders lost by HomEq.

9/10/08 Received 2 identical envelopes from McCurdy & Candler. Opened one that was a collection letter. Failed to open 2nd envelope which I later determined was the sale date letter. However, never received notification from HomEq.

9/11/08 Called HomEq. Spoke with Mr. B. (HomEq agent) who gave me a very thorough coverage of my options. Made him aware I was working with HOPE. He said I could do everything directly with the company to get a modification rather than going through an agency. He took new financials. Said he would submit for loan modification (5 year rework). Told me to be prepared to submit a hardship letter, lease agreement for rental property, proof of income and statement regarding checking account. Tax and insurance info not necessary since handled through HomEq escrow account.

9/15/08 Picked up certified letter from McCurdy & Candler at United States Post Office indicating my home was in foreclosure and scheduled for sale at courthouse on 10/7.

09/17/08 Received Escrow Account Disclosure Statement from HomEq Servicing indicating escrow shortage of $1916.43 and new payment of $1646.33 effective 11/01/08. All indications would be that this loan is still active and not in foreclosure or scheduled for sale.

09/18/08 Called HomEq, spoke with Ms. S. who said there was no sale date on property. Account still in research status regarding lost payments. She said there was nothing in my file regarding results of application for modification. Put her on 3 way call with attorney's office so she could hear attorney's office refer me back to mortgage company and to hear that there was in fact a sale date. We were disconnected. Called HomEq back within 5 minutes. Spoke with Ms. J. who said there was definitely no sale date and the account was still in research status; however, the modification had been denied on 09/11/08 – the same day I spoke with Mr. B. Ms. J. could not answer why the modification had been denied, but she would investigate. There would probably not be a response before Monday, 9/22/08 since the HomEq office would be closed on Friday, 09/19/08 for a major training meeting. She reiterated there was no sale date. She also confirmed that no foreclosure/sale letter had been issued from HomEq as received on earlier action, so there couldn't be a sale date. While speaking with Ms. J., my file was updated to reflect details of disconnected conversation with Ms. S. Both Ms. S. and Ms. J. escalated the sale date issue to their respective managers.

09/23/08 Follow-up call to HomEq to clarify loan modification denial and foreclosure/sale date.. Spoke with G. (Operator code GM5). He determined that a programming glitch caused the same-day denial and that there was a note in my file indicating eligibility for the modification. After several minutes on hold, he said a $10,000 deposit towards modification and required documentation had to be received to proceed with modification. I requested a fax from HomEq indicating the requirements to proceed with modification. He said that he didn't know if there was a document he could fax, but one would be mailed. After placing me on hold for several *more minutes, he said that there was in fact a new form that he could fax. I gave him my fax number, he emphasized that time was of the essence – since HomEq files had now been updated to reflect a sale date. He agreed that a client could in fact be discussing a way to save their home while the house was being sold. I asked if an itemization of interest payments, legal fees, late fees would be provided since there were so many confusing issues over the past months. He said there would be a detailed list made, however I needed to focus on saving my home. Agreed, but I can't afford to pay for fees related to unjustified legal actions. He suggested that after the modification was in place and home saved such issues could be addressed to a Customer Care Department.*

9/24/08 Called HomEq to get details on submitting documents and down payment for modification. Spoke with T. Told her G. agreed to send a fax on 09/23/08 with list of required documents for modification She said there was nothing in my file indicating a fax was to be sent. She emphasized getting everything in ASAP. She gave me details for mailing, Western Union and bank-to-bank transfer options for submitting the $10,000 deposit. She also gave me the fax number for the Loss Mitigation Dept. T. indicated that in 2 days if there was a fax to be sent out it would be available for resending then.

I'm making every attempt to submit necessary documentation and $10,000 deposit as requested to proceed with modification. However, for 7 months I've done everything HomEq requested, but unable to get a letter from HomEq indicating that my loan will be considered for modification upon receipt of deposit and required documents.

In the words of a HomEq agent, the last 7 months have been a "customer service" nightmare.

My primary income is steady with potential for increases, the main rental tenant is in place and stable with one year completed, second tenant will be in place in November and I will continue musician responsibilities at the church.

Ultimately this client received a positive workout in October of 2008, after RRC contacted a supervisor at Home EQ and threaten legal action by copying Legal Aid's name on the letter.

STATEMENT OF DAN IMMERGLUCK

Mr. IMMERGLUCK. Thank you, Chairman Kucinich, Congressman Westmoreland and Scott, for inviting me here today.

I want to make—on top of the really excellent comments that have been made already, I want to make four basic observations and five kind of broad policy recommendations.

My first observation is that the foreclosure crisis in Atlanta began long before the national foreclosure crisis. We saw foreclosures rising here before housing prices dropped. In fact, they were a large cause of the housing price drop in Atlanta. They began really picking up early part of the decade, but really in 2005 and then exploded in 2007, especially in Fulton and DeKalb Counties.

But over the last 12 to 18 months, foreclosures have been rising the fastest in the suburban and outlying counties. This year, for example, the number of foreclosure starts for a single family property in Henry and Gwinnett Counties is actually higher than DeKalb and Fulton, the long time leaders in foreclosure rates.

My second point is that foreclosure properties, as Brent and others have said, have destabilized neighborhoods and I am afraid even after they come out of bank ownership, they are continuing to destabilize neighborhoods. Many foreclosed properties remain vacant and bank owned for many months, sometimes more than a year. At the same time, starting I think in the summer of 2008 locally, lenders began increasing their selling of foreclosed properties, especially lower value distressed properties, often at very low prices, a process some referred to as dumping. In the first quarter of 2009 in Fulton County, I estimate that 45 percent of sales of foreclosed properties in the country were priced at under $30,000, many at under 20 or $10,000. I think the same trends have been seen in Cleveland. Many of these properties are in need of substantial repair and improvement, they are truly distressed properties.

When foreclosed properties are returned to occupancy and productive use, selling properties by banks can be a good thing. But it remains unclear how many of these properties are going into productive use. Many, as Mr. Brewer cited, are remaining vacant. Some are rented, but even then it is unclear how many are providing safe and secure housing. If they are not rehabbed sufficiently to do so, they are going to continue to cause distress in local communities.

My third point is that many neighborhoods in the Atlanta region have experienced damaging booms and busts in property values, the same kinds of booms and busts that we have seen in places like Las Vegas, Phoenix, southern California, northern California and Florida.

As an example, two neighborhoods on the south side of Atlanta, the Pittsburgh neighborhood and the West End neighborhood, saw steeper increases in prices and steeper falls than Phoenix, Las Vegas or any place else in the country. Part of this was fed by mortgage fraud and property flipping schemes which in turn were enabled by reckless subprime lenders who were more than happy—and mortgage brokers—who were more than happy to look the other way.

My fourth point is that access to mortgage credit is currently extremely dependent on Federal intervention and we may be seeing a new rise in yet another dual mortgage market where modest income in minority community and homeowners are not well-served by conventional lenders. Due in part to the tightening of prime lenders, some would argue too much tightening, the share of home loans made by Federal Housing Administration lenders has gone from 5 percent to well over 25 percent in only about 12 to 18 months. In modest income neighborhoods, this share is more like 40 to 50 percent or more. FHA loans are more expensive and have other disadvantages, so in the long term, I worry about the disadvantages replacing communities that have been hard hit by the very foreclosures caused by the subprime lenders.

Implications for policies. First, the most important step, in my opinion, to bring back the stability of neighborhoods is to create a new framework for mortgage market regulation. Reckless behavior, I do not care who it is by—lenders, borrowers or both—poses grave harm to local communities. The most important thing Congress can do to bring stability to neighborhoods is to make sure we have a strong, serious, vigorous and comprehensive consumer financial protection agency. It is critical that the scope and the strength of this agency not be weakened any further. It has already been weakened. If we have learned one thing from this mess, we have learned that carving out parts of the industry to not be covered is what got us here. We need comprehensive, uniform regulation for anybody who wants to make a mortgage.

My second policy point real quickly is that local communities, because they bear the brunt of this thing, have to be able to regulate at a higher level than the Federal Government. We cannot have any more Federal preemption.

Third, the neighborhood stabilization programs have been important steps but, as Brent has argued and as my data shows, we are not seeing the majority of vacant homes no longer owned by banks in many neighborhoods. We need tools to deal with vacant and dilapidated properties that are not owned by banks.

Finally, we need, as Senator Fort said, we need increased attention to fair lending, both backward and forwards. We need really to pay attention to access to credit in all communities around the country.

Thank you.

Mr. KUCINICH. Thank you very much.

We are next going to hear from Mr. Alexander, after which point each member of the committee will have 5 minutes to ask questions of any of the witnesses.

You may proceed, Mr. Alexander.

[The prepared statement of Mr. Immergluck follows:]

Testimony of Dan Immergluck, PhD
Associate Professor
City and Regional Planning Program
Georgia Institute of Technology[1]

before

Committee on Oversight and Government Reform
Subcommittee on Domestic Policy

Honorable Dennis Kucinich, Chair

November 2, 2009

Good morning Chairman Kucinich, Ranking Member Jordan, and members of the Subcommittee and thank you for inviting me here today to testify on issues concerning the problems of continuing foreclosures and the overall financial crisis.

I am an Associate Professor in the City and Regional Planning Program at Georgia Institute of Technology in Atlanta, where I each graduate courses in real estate finance, statistics and other courses. I also conduct research on housing markets and real estate finance, community development, and related issues, and am the author of two books and many scholarly publications in these arenas.[2] I have worked with government and nonprofit organizations on various aspects of the mortgage and foreclosure crisis, both in Atlanta and nationally.

While the national foreclosure crisis is generally dated to beginning in late 2006 or early 2007, the Atlanta region had already seen a sizeable surge in foreclosure activity, especially in the inner counties of Fulton and DeKalb, as early as 2002 and 2003. When the national subprime crisis hit in 2007, the Atlanta region was one of the early warning regions, with foreclosures increasing in 2006 and then exploding from 2007 to 2008. Figure 1 shows that foreclosure notices increased in Fulton and DeKalb counties from roughly 30 to 35 notices per 10,000 properties monthly in late 2005 to a rate of approximately double that by the summer of 2008.

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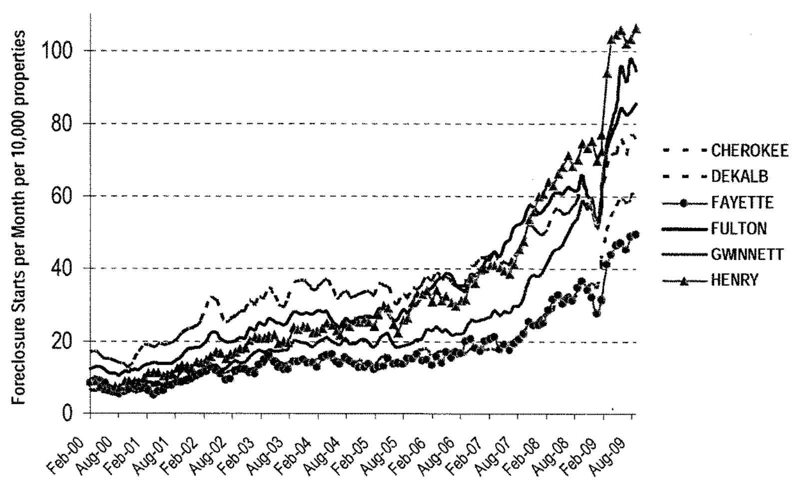
[1] Atlanta, GA, 30332-0155, dan.immergluck@coa.gatech.edu, 404-385-7214.

[2] I have included a recent article that I authored on the foreclosure crisis, foreclosed properties and related federal policy from the Journal of the American Planning Association as an attachment to this testimony.

After a temporary drop in notice activity in late 2008 – likely due to the national foreclosure moratoria on the part of some servicers – foreclosure notices began to rise again in 2009.

Figure 1 also shows that, over the last year or so, the rates of increase in foreclosure starts have increased the fastest in suburban and outlying counties. The figure shows the steep increases in foreclosure start rates in Henry, Gwinnett as well as Fayette and Cherokee counties. By early 2009, the rates in Henry and Gwinnett had surpassed those in the inner counties of Fulton and DeKalb, which had long had the highest foreclosure rates in the region. The suburbanization of the foreclosure crisis occurred across all suburban counties. By mid-2009, even in such counties as Fayette and Cherokee, where foreclosure rates had not passed those of DeKalb or Fulton, rates had climbed well above where the inner counties were in the summer of 2007, which were already very high levels.

Figure 1. Monthly foreclosure notices per property, 2000-2009



Data sources: Foreclosure notice data from Equitydepot.net; number of 1-4 unit properties and condominiums from American Community Survey 2006-2008

The very rapid increases in foreclosure starts in suburban areas is partly due to the increase in foreclosure activity among prime and "jumbo" mortgages, as well as among some prime-credit, exotic loans. The Atlanta region has seen unemployment essentially double in a very short period of time and the nature of loose underwriting standards – even among prime lenders – is such that many borrowers are not able to withstand major drops in income. Unemployment can also mean the loss of health insurance, which can contribute to the foreclosure problem.

With many labor market analysts calling for very high unemployment levels to persist through to at least 2010, and likely only to decline slowly after that, high rates of foreclosure will likely continue, and the shift away from subprime to prime foreclosures should continue as well. There is some scattered evidence that increasing numbers of these foreclosure starts are not proceeding to completed foreclosures, either due to loan modification efforts or due to an unwillingness of lenders to take back properties. While this situation may cause some problems, it may be beneficial from the perspective of impacted communities, in that fewer houses may become vacant as foreclosures are completed and properties flow into real-estate-owned (REO) status.

While it is important to recognize that unemployment has become a significant driver of higher foreclosure rates, lately, the other key driver was the stalling and falling of property values, which were, in turn, caused by earlier high, subprime foreclosure rates and overvalued properties whose values were inflated by the availability of high-risk and too-easy credit. The root cause of the current recession, especially in places like Atlanta, is a boom-bust housing market structure, underpinned by unsustainable and irresponsible mortgage markets.

The Problem of Foreclosed Properties and their Disposition

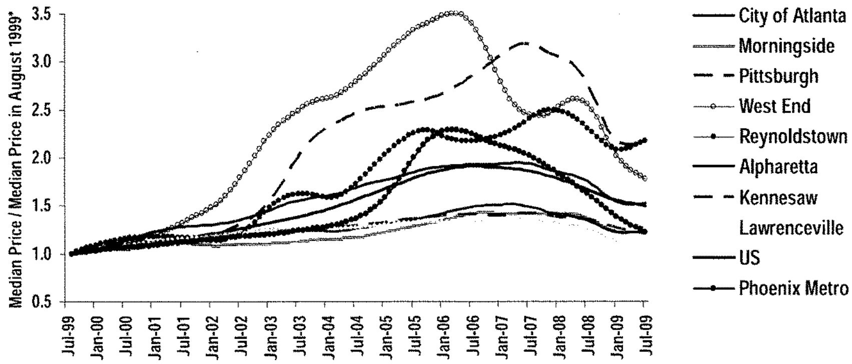
Unlike some states with much longer periods of time between the foreclosure notice and the foreclosure auction, in Georgia, the process takes just over one month. Beyond making it more difficult for borrowers to seek alternatives to foreclosure, including loan modifications, short sales, or the like, the rapid process means that properties flow very quickly into lender ownership, or REO status. The Atlanta region saw a rapid increase in REO properties from 2005 to 2008 (Immergluck, 2008). Most of these were held by lenders for some time and remained vacant, typically for more than 6 months. By 2008, lenders began to sell more REO properties, many of them at very low prices. While the sale of REO into productive use can be a good thing, it remains unclear how many of these REO properties are being sold and occupied – either by homeowners or by renters. By the first four months of 2009, I estimate that more than 45% of REO sales in Fulton County were priced at under $30,000. Many of these properties are likely in need of substantial repair and improvements. While more research is needed, anecdotal evidence suggests that many of these properties remain vacant. While some others are being used as rental properties, the extent to which these properties have been rehabbed sufficiently for providing safe and secure housing is unclear. In other cities (Cleveland, in particular) there is substantial evidence that many buyers of distressed properties are speculating or flipping them quickly with little intention of improving them.

Boom-Bust at the Neighborhood Level

While the Atlanta region as a whole did not experience the dramatic boom and bust in housing values that some other regions did, some neighborhoods did experience boom-bust episodes that were more severe than those in places like Las Vegas or Phoenix. Figure 2 illustrates the patterns of home values in a variety of neighborhoods in the city of Atlanta, as well as some suburbs. (Central city neighborhoods are in red; suburbs in green.) It also, as a reference, provides information on price changes for the U.S. as a whole and for the Phoenix metropolitan area, a classic "bubble" region. This chart measures the median sales price of a 3-bedroom home in the area compared to the median in July, 1999. A ratio of 2.0 means that prices had effectively risen by 100 percent since that time.

The figure shows that three of the four central city neighborhoods in the chart – Pittsburgh, West End and Reynoldstown -- experienced dramatic price bubbles beginning in the early 2000s and accelerating in the middle 2000s. Morningside, a very affluent neighborhood on the city's northeast side, already had quite high values by 1999 and saw much more moderate appreciation during the 2000s. The appreciation rates in Pittsburgh and West End neighborhoods were much higher than even that of the Phoenix metro area. Moreover, the suburban communities of Kennesaw, Alpharetta, and Lawrenceville – all relatively far-out suburbs – saw very modest appreciation during the boom, similar to the trajectory of Morningside.

Figure 2. Home Price Trajectories in Selected Atlanta Neighborhoods/Communities 1999-2009



Data source: Zillow.com

*Includes prices of 3-bedroom homes only; excludes sales of foreclosed homes by lenders.

Since late 2006 to 2007, the trajectories of these "bubble" neighborhoods have been sharply downward. In fact, much of the appreciation in these communities was completely unsustainable. Moreover, some of it was associated with a type of orchestrated mortgage fraud-for-profit in which properties are flipped at egregious price increases in order to extract cash from the transaction. This involves appraisal fraud, in particular, and often other arrangements such as "straw buyers" and other practices. Such practices were directly enabled by the extremely loose lending practices of subprime lenders and mortgage brokers. Relatively simple detection systems could have been put in place to detect fraudulent practices and improve the rigor of appraisals. However, like many problems with the housing finance system during the subprime and high-risk era, various financial incentives worked against such moves. Mortgage brokers, loan officers, and banks, were often more interested in increasing market share and maximizing origination volume than in reigning in fraud (Immergluck, 2009a).

Rapid housing price booms and busts harm neighborhoods in several ways. First, as prices rise rapidly, property taxes rise as well, and this creates severe pressures on longer-term residents, especially those with modest means or fixed incomes. As displacement pressures build and speculative investment in the neighborhood increases, tensions between incumbent residents and newcomers are likely. As some long-term residents are forced to leave, the social fabric of the neighborhood, especially the networks that long-term residents have come to rely are broken apart. When values begin to fall rapidly, property vacancy and abandonment increases. While many foreclosed homes may be purchased by investors, many of these investors may have little interest in the long term stability of the neighborhood and may merely be hoping for a quick exit if the trajectory of property values once again turns upward.

Nothing is wrong with some ebb and flow of property values. Nor is their anything inherently wrong with investors purchasing properties with the intent of managing sound, safe and affordable rental housing. However, large, rapid and highly volatile swings in prices from, for example, prices below \$50,000 to above \$200,000 and then back down to \$20,000 over a period of a few years is not a sustainable, long-term scenario. Just the problems posed to tax assessors alone in valuing properties in such an environment are enormous. But the real damage is that done to the residents of the neighborhoods who simply want to live in a relatively stable, safe, and affordable community.

Through the Housing and Economic Recovery Act of 2008 and the American Reinvestment and Recovery Act of 2009, the federal government has taken some steps to increase resources to local communities for dealing with vacant, foreclosed properties. The Neighborhood Stabilization Programs have been an important step in the right direction and promising efforts are being employed right now to address some of the aftermath of the foreclosure crisis in many neighborhoods. At the same time, the passing of many distressed properties from bank to investor ownership will pose a challenge to many localities and neighborhoods. There will be a need for more flexible tools and funding streams to deal with the problems caused by the wild-west mortgage market of the last decade.

Even more importantly, however, policies must be put in place to ensure that a crisis of this magnitude never happens again. Chief among these is a new framework for mortgage market regulation that does not rely on ineffective consumer disclosure forms. Mortgage markets are not equivalent to markets for buttons or clothespins. They are inextricably tied to land markets, homes, and neighborhoods. As a result, reckless behavior – whether by lenders, borrowers or both – poses grave harm to local communities and, as we have now seen, to our national economy. *Strong consumer protection is the first and necessary step toward community stability.*

Having observed the federal banking and mortgage market regulators for almost twenty years, I am entirely convinced that a new, muscular Consumer Financial Protection Agency is a necessary ingredient for regaining a sound mortgage market. Moreover, given the fact that the costs of failing to regulate are borne by local communities and not evenly spread across the country, state governments should have the ability to regulate more strongly than federal regulators. If a state choosing stronger regulation deters access to certain credit products or raises the cost of such products slightly, it should be left to the state to decide whether the benefits of stronger regulation are worth such costs. Moreover, the real estate market is already largely governed by state law. Foreclosure laws, for example, have always varied from state to state. These variations have been easily accommodated by national lenders.

Access to Credit and Fair Housing Issues

Homeownership Finance, and Conventional versus FHA Lending.

Even after accounting for the demise of many high-risk subprime lenders, most lenders have tightened underwriting standards quite steadily since the subprime crisis began. According to the Federal Reserve's Senior Loan Officer Survey, prime lenders began tightening standards in 2007, as the subprime crisis worsened, and this has continued, although the pace of ongoing tightening began to slow some in late 2008. In early 2009, 49% of lenders continued to tighten standards, while no lenders reported easing standards. At the same time, FHA market share, which had dropped to around 5-7% of home purchase loans in 2005 and 2006, increased to an estimated 25% by early 2009 (Immergluck, 2009b).

The FHA expansion, combined with the conservatorship of Fannie Mae and Freddie Mac, means that the federal government has become the critical driver of the mortgage market. FHA loans currently constitute a disproportionately large share of the market in lower-income and minority neighborhoods. This may be due to differences in real or perceived risks across zip code types (including differences in credit scores and downpayments), to differences in lending practices of lenders or private mortgage insurers across neighborhoods, and/or to other factors. Regardless of the reasons behind these disparities, they are important to recognize. In part because FHA loans are generally more expensive, such disparities could have significant consequences for lower-income and minority communities and households. (Unlike some "conventional" borrowers – especially those without private mortgage insurance -- FHA borrowers are essentially paying higher effective interest rates through insurance premiums.) More work is needed to understand what lies behind these disparities and their implications for lower-income and minority communities. Substantial attention to this issue by regulators and fair lending advocates is warranted.

The FHA's larger share of the home purchase loan market in lower-income communities suggests the need for strong fair lending and community reinvestment attention to the distribution of FHA versus other forms of loans. As conventional lenders and mortgage insurance firms change their underwriting policies, these policies, and the resulting lending patterns that result, should be examined for potential fair lending problems and impediments to sound community reinvestment. So called "declining market" policies by mortgage insurance firms, for example, should be justified based on hard data that can be examined for disparate impacts that may not be justified by business necessities.

Shifts in Tenure and Fair Housing

After climbing from the mid-1990s through the early 2000s, the U.S. homeownership rate began dropping during the peak of the subprime boom in late 2004 and early 2005, driven by surging foreclosures. By early 2009, the national homeownership was down 1.9 percentage points to 67.3% (a decline of 2.8% in the homeownership rate), roughly equivalent to the rate in early 2000. While this decline itself is significant, national changes mask steeper declines in many local communities. From late 2005 to early 2009, for example, the homeownership rate had fallen by 10% in the Toledo metropolitan area and by 8% in the Riverside metro. As homeownership rates fall, there are likely to be implications for racial and economic segregation. Because rental housing in many low-poverty and low-minority communities is scarce, less access to homeownership may bring with it decreased access to such neighborhoods by lower-income and minority households.

Any shift to the rental market suggests a need for stronger fair housing enforcement. The increase in homeownership rates and the geography of housing markets meant that, for a time, minority households gained somewhat better access to a broader array of neighborhoods. With homeownership rates on the decline, minority households may see highly restricted residential choices. Households whose credit histories have been damaged may be particularly hard hit as many landlords use credit histories to screen tenants. Federal and state agencies responsible for enforcing fair housing law will need to play a strong role in the housing market to mitigate these effects. Moreover, states and localities could pursue "source of income protection" ordinances that prohibit landlords from rejecting voucher holders as tenants.

I want to thank the Subcommittee again for the opportunity to appear before you today.

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Special Topic: Federal Policy

The Foreclosure Crisis, Foreclosed Properties, and Federal Policy

Some Implications for Housing and Community Development Planning

Dan Immergluck

Problem: Foreclosures surged during the 2007 to 2009 national foreclosure crisis and federal policymakers failed to respond quickly and forcefully to the problem. The large numbers and geographic concentration of foreclosed properties have posed a particular problem for many planners.

Purpose: I aim to describe the intra-metropolitan distribution of foreclosed properties at the zip code level, the often anemic or delayed federal policy response to rising foreclosures, and the potential effects of likely changes in federal policy and housing finance for metropolitan housing, development patterns, and local housing and community development planning.

Methods: I used archival research and secondary and media resources to document the federal response to the foreclosure crisis. I analyzed a proprietary data set to describe the problem of the accumulation of foreclosed properties across and within metropolitan areas.

Results and conclusions: Foreclosed properties were already accumulating in metropolitan areas with weak housing markets by 2006, but formerly hot markets such as Riverside, CA, Las Vegas, NV, and Phoenix, AZ, had many more by mid-2008. Within metropolitan areas, foreclosed properties were disproportionately concentrated in central city neighborhoods, although suburban zip codes with long commute times also had relatively high levels. The federal response to rapidly worsening foreclosures was faltering and timid. More conservative finance following the crisis will put downward pressure on housing consumption, potentially shifting demand to smaller homes. However, financing may be difficult or expensive to obtain for condominium buildings, and lenders and investors may shy away from less conventional projects, due partly to higher risk premiums.

Takeaway for practice: In the short run, local governments must confront the problems of foreclosed properties, especially when they are highly concentrated in certain neighborhoods. More conservative mortgage markets are likely to persist for some time, with potential impacts on housing demand. Planners should strive to diversify tax bases by promoting more diverse land use and housing patterns to make their communities more resilient in future crises. Federal policymakers may move toward greater mortgage market regulation, but this will be vigorously debated. Policymakers will also consider the ongoing federal role in secondary markets, without which long term stability is unlikely. Finally, Congress may extend the Community Reinvestment Act to nonbank financial institutions given the federal support they have received during the crisis.

Keywords: foreclosure, mortgage crisis, housing, finance

Research support: None.

About the author:

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The U.S. foreclosure crisis and the larger financial crisis it precipitated have had, and will continue to have, a wide variety of direct and indirect impacts on neighborhoods, cities, and metropolitan regions (Schilling, 2009). I begin by describing the development of the foreclosure crisis, its impacts, and the resulting accumulations of foreclosed properties among and within metropolitan areas. I then describe the federal policy response to the foreclosure and larger financial crisis up through mid-2009, focusing on efforts to reduce surging foreclosures and deal with the problems of vacant, foreclosed properties.

I also discuss some potential implications of likely changes in housing finance for housing patterns and metropolitan development. My principal focus is on impacts that stem from likely changes in housing finance rather than from the broader economic downturn. This discussion is based largely on informed speculation, but also on some changes in housing finance that are already evident. Highly definitive predictions are certainly unwise at this point, since outcomes will be driven in large part by as yet unknown responses by policymakers and financial markets. However, the impacts of these changes, should they materialize, would likely be very large, so planning practitioners and scholars should start discussing and researching them sooner rather than later. Speculation around postcrisis changes in development patterns has clearly already begun (Florida, 2009; Leinberger, 2008).

Finally, I turn to discussions of more specific, and nearer-term, federal policy issues that have been stimulated or resurrected by the crisis and are likely to have substantial influence on housing and community development. I focus on issues of housing finance and neighborhood stabilization in the face of accumulating foreclosed properties, including: federal neighborhood stabilization funding, mortgage market regulation, the federal role in secondary markets and securitization, and community reinvestment and fair lending policies. The relevance of some of these topics to planning may not be immediately obvious, but the history of metropolitan development in the United States suggests that housing policy and especially housing finance can be key forces in shaping metropolitan regions. The next 10–20 years will likely be no exception.

The Evolution of High-Risk Mortgage Markets

Contrary to some media reports, the development of high-risk mortgage lending began well before the recent run up (Immergluck, 2009). An earlier boom in the second half of the 1990s was marked by a surge in subprime refinance lending. After 2001, subprime home purchase loans grew rapidly, together with a new class of *exotic mortgages,* alternative mortgages aimed at prime borrowers. Subprime home purchase loans grew over 250% from 2001 to 2004 (Immergluck, 2009). While subprime mortgages made during the first boom performed very poorly, the loans made during the second boom performed even worse. According to the Mortgage Bankers Association (2009), outstanding subprime loans were entering foreclosure at an annualized rate of over 17% by the second quarter of 2008. Moreover, this rate was based on a much larger population of subprime loans than in previous periods.

A key factor in the growth of the subprime market in the 1990s was the vertical disintegration of the lending industry as securitization grew and fewer originators held their own mortgage loans (Jacobides, 2005). However, mortgage securitization did not appear out of thin air. Deregulation and the federal preemption of state regulations laid the groundwork for increased securitization in the 1980s, initally by Fannie Mae and Freddie Mac, the government-sponsored enterprises (GSEs) whose principal business was the bundling and securitization of mortgage loans (McCoy & Renuart, 2008).[1] Even more importantly, deregulation and favorable tax and securities policies facilitated the growth of private-label securitization, which grew rapidly in the 1990s. Private-label mortgage-backed securities, which do not go through the GSEs, grew from $35 billion in 1993 to $150 billion in 1998 (U.S. Department of the Treasury & U.S. Department of Housing and Urban Development, 2000).

As dominance in the mortgage market shifted from savings and loans to mortgage companies in the 1980s and 1990s, federal policymakers did little to adapt supervisory systems to the new market structure, effectively deregulating through lack of action (Immergluck, 2009). Congress passed the Home Ownership and Equity Protection Act (HOEPA) in 1994, giving the Federal Reserve Board the power to issue proscriptive regulations on both high-cost and non-high-cost loans. But the Board's protections primarily applied to the former category, which was defined by such high price thresholds that it covered few loans, and they had little impact. The statute gave the Federal Reserve the authority to add more proscriptive regulations and to lower thresholds, but it did very little in this regard until 2008, when it finally issued more regulations on a broader set of loans after subprime originators had essentially shut down.

Some states attempted to strengthen their own regulations in the late 1990s and early 2000s, but federal regulators, including the Office of the Comptroller of the Currency (OCC) and the Office of Thrift Supervision (OTS), maintained that their authorities took precedence over state laws for federally chartered lenders and their affiliates (McCoy & Renuart, 2008). This blocked the efforts of consumer advocates who had been fighting for stronger regulations at the state level.

High-risk lenders exploited the geographies of social disadvantage, and federal regulators failed to address geographical and racial disparities, even when given policy tools to do so (Apgar, Calder & Fauth, 2004; Squires, 2003; Wyly, Moos, Froxcroft, & Kabahizi, 2007). By 1998, subprime lenders dominated the refinance market in Black neighborhoods across the country. Subprime lenders made 51% of refinance loans in predominantly Black census tracts, compared to only 9% in predominantly White tracts (U.S. Department of the Treasury & U.S. Department of

Housing and Urban Development, 2000). Refinance borrowers in upper-income Black tracts were six times more likely than borrowers in upper-income White tracts to receive subprime loans. Calem, Gillen, and Wachter (2004) found that, even after controlling for education, income, credit histories, and other characteristics, an all-Black tract was expected to have a subprime share that was 24 percentage points higher than an otherwise equivalent White tract.

Two new forces fed the second boom in high-risk lending. One was the rapid appreciation of home values in many metropolitan markets, especially in the West and Southwest, in Florida, and on some parts of the East Coast. Lenders responded to affordability problems in areas with rapidly escalating prices by developing new *affordability products* that offered exotic loan structures to both prime and subprime borrowers. As home prices rose, lenders increasingly competed for borrowers by offering larger loans, enabling the purchase of larger homes or homes in more desirable areas. Subprime and exotic lending increased the effective purchasing power of buyers in most markets, fueling price appreciation, which in turn led to more high-risk lending. In many places, greater purchasing power was largely transformed into higher home values (Green & Wachter, 2007).

Another factor contributing to the second high-risk lending boom was the increased supply of high-risk capital. As the dot-com bubble burst, many sellers chose to invest in real estate instead of stocks (Downs, 2007). What the Federal Reserve Chairman called a "global saving glut" also propelled capital into the United States. Net international lending to U.S. citizens, businesses, and governments increased from $120 billion in 1996 to $666 billion in 2004 (Bernanke, 2005).

Private-label securitization played an increasingly important role in fueling high-risk lending. Subprime and Alt-A[2] mortgage-backed securities increased from $98 billion in 2001 to approximately $814 billion by 2006 (Ashcraft & Schuermann, 2008). Financial innovation in securitization markets, especially the use of *collateralized debt obligations* (CDOs) and *credit default swaps*, increased the risk levels in mortgage markets. CDOs pool mortgage-backed security bonds, some with ratings below AAA, transforming lower grade mortgage-backed security bonds into higher-rated CDO bonds (Mason & Rosen, 2007). Credit default swaps are essentially private, unregulated, insurance agreements that allow investors in mortgage-backed securities and CDOs to hedge their investments, increasing the amount of capital flowing into such investments.

Securitization schemes created frictions between parties in the credit supply chain, including loan originators, credit rating agencies, issuers of securities, and investors (Ashcraft & Schuermann, 2008). These frictions often involved principal-agent or asymmetric information problems, and occurred when one party had an incentive to conceal critical information from another party. The complexity of mortgage-related securities made them less than transparent and caused investors to rely on ratings from the large credit rating agencies. These firms, including Standard & Poors, Moody's, and Fitch Ratings, repeatedly underestimated or understated the risks to investors in mortgage-backed securities and CDOs (Mason & Rosen, 2007). Finally, different *tranches* (groups of investors holding mortgage-backed securities, each group with a different maturity or rate of return) had different and sometimes conflicting interests if loan modifications were required (Eggert, 2007). This created a threat of litigation against loan servicers who might have otherwise been more aggressive in modifying loans to reduce foreclosures.

Surging Foreclosures and Spatial Concentrations of Foreclosed Properties

In many older cities with weak housing markets, but also in some cities with relatively strong economies like Atlanta and Chicago, delinquencies and foreclosures increased well before 2006. By the first quarter of 2006, subprime delinquency rates already exceeded 12% in states with more troubled economies, like Pennsylvania, Michigan, Ohio, and Indiana, but also in Georgia and Tennessee, whose economies were still fairly robust at this point.[3] However, regions with very hot housing markets experienced low delinquency rates at this point, with California, Arizona, and Nevada having rates below 6%. This was because borrowers struggling with mortgage payments in hot markets could often avoid default or foreclosure by refinancing or selling their homes.

By the summer of 2007, foreclosure rates were accelerating in most large metropolitan areas, with the steepest increases in markets where housing values were declining rapidly, including places like Riverside, CA, Las Vegas, NV, Phoenix, AZ, Sacramento, CA, and Miami, FL (Immergluck, 2008). Surging foreclosures meant that foreclosed properties, which lenders call *real estate owned* (REO), were beginning to pile up in many metropolitan areas. Slowing housing markets and tightening credit also prevented these markets from absorbing growing numbers of REO properties.

Figure 1 illustrates the growth of estimated total REO properties in several major metropolitan areas between

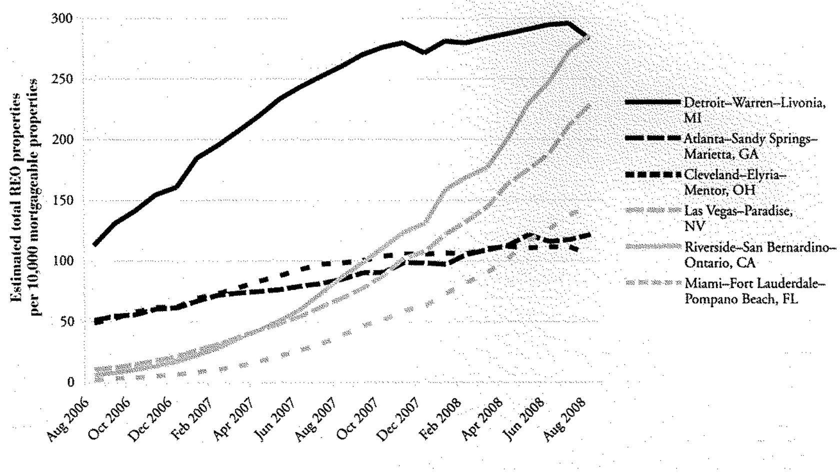

Figure 1. Increases in estimated REO properties per 10,000 mortgageable properties[a] in selected MSAs, August 2006 to August 2008.

Note:

a. Mortgageable properties include one- to four-unit residential buildings plus condominiums.

Sources: LPS, 2009; U.S. Census Bureau, 2008b.

August 2006 and August 2008. I totaled loans in REO status from the Lender Processing Services (LPS) Applied Analytics data set, which combines data from 18 large servicers of mortgage loans, including 9 of 10 ten largest in the nation (LPS, 2009).[4] I then calculated REO densities by dividing these counts for each metropolitan statistical area (MSA) by the number of mortgageable properties (including all buildings containing from one to four dwelling units, plus condominiums) in the same MSA from the 2006 American Community Survey (U.S. Census Bureau, 2008b). To compensate for geographical inconsistencies and incomplete coverage of the total market, I adjusted the REO totals upward based on statewide loan counts from the Mortgage Bankers Association (2009) National Delinquency Survey (NDS; the NDS is the most widely used and cited data source on the national mortgage market).

Figure 1 shows how REOs accumulated in three MSAs whose housing markets had previously been hot (Miami, FL, Riverside, CA, and Las Vegas, NV), as well as in three other MSAs (Cleveland, OH, Detroit, MI, and Atlanta, GA) whose levels of foreclosure and REO activity had been high even before the national foreclosure crisis in 2007. It indicates that the latter had much higher REO densities at the end of 2006, but that REO densities in the formerly hot markets began to grow rapidly as foreclosures surged. REO densities also grew in the cities that began the crisis with already high levels, but not as quickly as in the MSAs experiencing rapid price declines. By late 2007, REO densities in the Riverside and Las Vegas MSAs exceeded those of Atlanta or Cleveland, and by late summer 2008, the Riverside MSA had a higher REO density than the Detroit MSA.

In addition to causing financial and social hardship to individuals and households, high foreclosure rates can have negative effects on neighborhoods and localities, especially when they are geographically concentrated (Apgar & Duda, 2005; Schuetz, Been, & Ellen, 2008). These negative effects, including lower property values, higher crime, and increased costs to municipal government, are expected to be greater if REO properties sit vacant for significant periods of time rather than being promptly absorbed back into the market in some productive way (Mallach, 2009).

Because subprime lending was disproportionately concentrated in minority neighborhoods and because REO absorption may be slow in lower-income neighborhoods if properties are in poor condition and housing demand sluggish, we might expect REOs to be disproportionately concentrated in central cities that are relatively less affluent than their MSAs. However, subprime and high-risk lending also helped fuel fast growth in newer suburban and exurban communities, especially in parts of the Southwest and in California. Media reports suggested that problems may have been disproportionately severe in newly developed communities distant from metropolitan centers (Leinberger, 2008). Research in specific metropolitan areas provides some support for this. Ong and Pfeiffer (2008) examined foreclosures in Los Angeles County in early 2008 and found that exurban location accounted for about 20% of the spatial variation in foreclosure rates. Lehnert and Grover (2008) examined data on subprime loans in the Minneapolis metropolitan area and found that foreclosure rates were relatively high both in some parts of the central city and in some recently developed, exurban communities. Lehnert and Grover's study in particular suggests the possibility that in some places REO accumulation occurred in a doughnut pattern, high in both central city neighborhoods and in outlying suburban or exurban communities. The extent of such a pattern in any particular MSA will likely depend on how much of its suburban or exurban development occurred during the housing boom and the intrametropolitan patterns of home price declines in that MSA.

In order to describe the intrametropolitan REO patterns across large U.S. metropolitan areas, Figure 2 divides more than 8,800 metropolitan zip codes in the 100 largest MSAs into four categories of REO density as of November, 2008.[5] I estimated REO properties in each zip code using the LPS Applied Analytics data, employing the same state-level weights used to generate Figure 1. I omitted zip codes containing only post office boxes and zip codes with fewer than 500 mortgageable properties. I estimated the number of mortgageable properties in zip codes by adjusting 2000 census counts of such properties using ESRI's 2007 zip code population estimates (ESRI, 2007).

Within each of these REO density categories, Figure 2 also groups zip codes into five intrametropolitan spatial categories. The first spatial category includes zip codes whose land area lies more than 50% within the primary central city in the MSA. The second category includes those zip codes that lie partly, but less than 50%, in the primary central city. The third spatial category includes those zip codes that lie entirely outside the primary central city and are also in the lowest quartile of zip codes arranged by share of residents commuting more than 30 minutes to work by car in 2000. These are labeled, *suburb-only, short-commute* zip codes. The fourth category includes those zip codes outside central cities with shares of such commuters in the second or third quartile. The final spatial category includes zip codes outside central cities whose shares of such commuters are in the fourth quartile, and so are called *suburb-only, long-commute* zip codes.

Figure 2 indicates that zip codes with high- and very-high-REO densities are disproportionately located in primary central cities. In the 100 largest MSAs, almost 30% of zip codes with very-high-REO densities and more than 21% of zip codes with high-REO densities are located in central cities, although they represent fewer than 18% of all zip codes. The greater REO densities in central city neighborhoods are likely due to the relatively high foreclosure rates in many of these neighborhoods (due in part to racial and spatial concentrations of subprime lending) and possibly to these neighborhoods being slower than other areas to reabsorb REO properties.

By late 2008, some suburban areas also had problems with concentrated REOs. Approximately 68% of zip codes with high densities of REOs and 58% of zip codes with very high densities of REOs were outside central cities. Moreover, suburb-only, long-commute zip codes made up a disproportionate share of the high- and very-high-REO categories, although still a smaller share than central city zip codes. Suburb-only, long-commute zip codes made up over 25% of high-REO zip codes and over 24% of very-high-REO zip codes, but only 23% of all zip codes. Meanwhile, suburb-only, low- and moderate-commute zip codes accounted for 49% of zip codes overall, but only 43% of high-REO zip codes and 34% of very-high-REO zip codes. This suggests that, on average, suburban communities located far from job centers have bigger problems with concentrated REO properties than do other suburban areas.

The Federal Response to the National Foreclosure Crisis

Many analysts sounded warnings about worsening foreclosures and weakening housing markets well before 2007. Some, including a number of analysts at the credit rating agencies, warned that falling home prices could spur foreclosures and housing market decline (Immergluck, 2009). Much earlier, consumer advocates and researchers at the U.S. Department of Housing and Urban Development (HUD) documented foreclosure problems associated

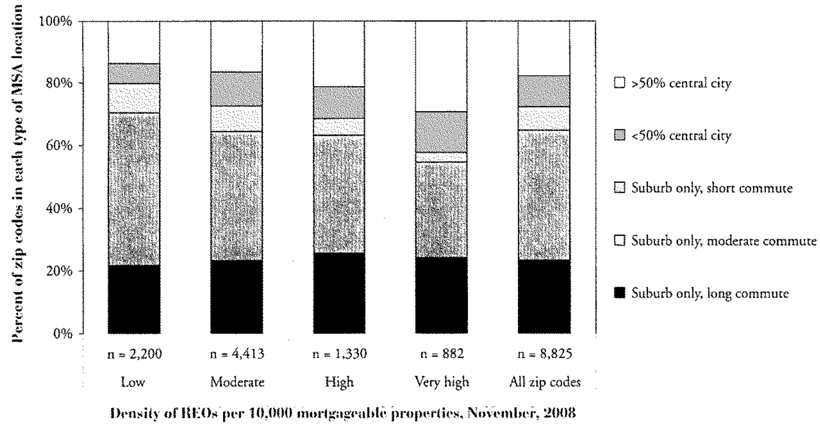

Figure 2. Percentages of zip codes in the 100 largest U.S. MSAs[a] in five location types[b] for each of four categories of REO density,[c] November 2008.

Notes:

a. This includes only zip codes possessing at least 500 mortgageable properties and located in the 100 largest U.S. MSAs, representing 94% of all zip codes in these MSAs.

b. I assigned each zip code to one of the five location types based on: (1) the portion of its land area lying within the primary central city of that MSA and (2) whether the 2000 Census reported it in the bottom quartile (short commute), middle two quartiles (moderate commute), or top quartile (long commute) of zip codes arranged by share of private vehicle commuters travelling over 30 minutes. I defined central city as the largest central city in the MSA.

c. The REO density categories are defined as follows:
Low: Fewer than 21 REO properties per 10,000 mortgageable properties
Moderate: From 21 to 114 REO properties per 10,000 mortgageable properties
High: From 114 to 235 REO properties per 10,000 mortgageable properties
Very high: More than 235 REO properties per 10,000 mortgageable properties.

Sources: LPS, 2009; U.S. Census Bureau, 2008a; ESRI, 2007.

with subprime lending (Bunce, Gruenstein, Herbert, & Scheessele, 2001). In the spring of 2006, the Consumer Federation of America issued a report warning of the dangers of exotic mortgages (Fishbein &Woodall, 2006). At the end of 2006, the Center for Responsible Lending issued a report forecasting that subprime foreclosures would accumulate to 2.2 million nationwide and that 19% of subprime loans would end in foreclosure (Schloemer, Li, Ernst, & Keest, 2006). Though criticized at the time as alarmist, both predictions proved later to be too conservative.

As foreclosures climbed in 2007, federal policy debates over the foreclosure crisis continued. Figure 3 provides a timeline of key events in the central column and defining points in the evolution of the policy response in the right-hand column. While there is no universal consensus about precisely when the crisis started, many would point to April 2007, when New Century Financial, one of the largest subprime lenders in the country, filed for bankruptcy. Smaller players in the subprime industry had filed for bankruptcy in preceding months, but the failure of New Century began to reveal the scale of the crisis. Although Congress had debated increased regulation of subprime lending since early in the decade, and the Federal Reserve had issued some minor changes to HOEPA regulations in 2001, federal policymakers had done little to address the growing problems of high-risk lending.

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Date	Key events in the crisis	Policy response
Dec 2006	CRL issues *Losing Ground* report, predicting over 2 million foreclosures	
Jan 2007		
Feb 2007		
Mar 2007		
Apr 2007	New Century files for bankruptcy; Joint Economic Committee issues its first report on foreclosures	National mortgage crisis evident
May 2007		
Jun 2007	Two Bear Stearns hedge funds fail due to subprime losses	
Jul 2007		
Aug 2007	FHA Secure mortgage refinancing program announced	
Sep 2007	Federal Reserve begins efforts to boost liquidity, increases short term loans to financial institutions	
Oct 2007	Durbin introduces bankruptcy cramdown bill; Hope Now Alliance is announced to increase counseling efforts;	First key legislative proposal introduced; executive branch response begins
Nov 2007		
Dec 2007	Treasury Department, Securities Industries Association, and Hope Now announce voluntary, targeted streamlined modification effort	
Jan 2008		
Feb 2008		
Mar 2008	Bear Stearns fails; Federal Reserve facilitates purchase by J.P. Morgan Chase at fire sale price	
Apr 2008	More lending facilities announced by Federal Reserve	
May 2008		
Jun 2008	Indymac Thrift fails. (Largest thrift failure in history.)	
Jul 2008	HERA passes, includes NSP I	
Aug 2008	Stock prices of GSEs fall more	
Sep 2008	GSE conservatorship begins; Lehman Brothers files for bankruptcy and Treasury and Federal Reserve decide against rescue; AIG is rescued via $85billion Federal Reserve loan; TARP introduced; Goldman Sachs and Morgan Stanley allowed to become bank holding companies	EESA and TARP
Oct 2008	Treasury announces TARP redirected to purchasing bank preferred stock to recapitalize	HERA
Nov 2008	Treasury says problem is contained, predicts no more large bank failures; FDIC begins mass modifications of Indymac loans	
Dec 2008	Obama picks Geithner, key architect of rescues and TARP as Treasury Secretary, Summers as chief economic advisor; Citigroup receives very large loan and capital	
Jan 2009	Obama administration requests second $350 billion of TARP and calls for bankruptcy cramdown legislation	Obama administration begins
Feb 2009	$75 billion MHA program introduced; Stimulus bill contains funding for NSP II	
Mar 2009		
Apr 2009		
May 2009	HFSTHA signed by President Obama does not include bankruptcy cramdown; Presidential memorandum calls for review/withdrawal of federal preemption of state laws	

Figure 3. Timeline of key events during the 2007–2009 mortgage and financial crisis.

In the spring of 2007, federal policy discussions about the subprime crisis intensified. In April, the same month that New Century failed, Congress' Joint Economic Committee issued a report on the impact of foreclosures on neighborhoods and communities. In late spring and early summer, Federal Reserve Chairman Bernanke and HUD Secretary Alphonso Jackson called for federal funding for foreclosure prevention counseling. In June, two hedge funds managed by the investment bank Bear Stearns declared bankruptcy, and investors filed suit against the parent company. By August, a long list of financial institutions announced losses in mortgage-backed securities and CDOs. The Federal Reserve moved to lower interest rates. By the last quarter of 2007, the private-label securitization market had essentially shut down.

In October, Senator Richard Durbin (D-IL) introduced the Helping Families Save Their Homes in Bankruptcy Act, which would have allowed a bankruptcy judge to modify the balance owed on an owner-occupied home loan, an action called a *cramdown*. Without the bill, after borrowers filed for bankruptcy under Chapter 13, the judge could modify the balance due on a vacation home or an investment property, but not on a loan secured by an owner-occupied primary residence. The Durbin bill would have removed this exclusion temporarily, providing direct relief to those filing for bankruptcy and giving servicers an incentive to modify loans voluntarily before the borrower filed for bankruptcy. Without offering substantive evidence, opponents argued that the Durbin bill would dramatically raise the interest rates on home purchase loans.[6] Industry lobbyists successfully blocked the bill. However, in early 2009, the failure of other efforts to slow the foreclosure problem meant that it was back on the table.

Partly as an alternative to the Durbin bill, the Bush administration, led by Treasury Secretary Paulson and HUD Secretary Jackson, announced the Hope Now Alliance in October 2007 (Hope Now Alliance, 2007). The Alliance included lending institutions, lender and investor trade associations, the NeighborWorks network, and other organizations. Hope Now focused on encouraging borrowers to call a 1-800 number to receive telephone credit counseling.

In early December, again rejecting calls for stronger interventions, President Bush and Treasury Secretary Paulson announced an effort to promote "streamlined," but voluntary, modifications for a subset of subprime mortgages (American Securitization Forum, 2007). This proposal was developed in conjunction with the American Securitization Forum, a structured finance trade group. The plan was criticized by many consumer advocates in part because it was entirely voluntary on the part of servicers and investors (Said & Zito, 2007). The voluntary nature of the plan and the barriers to modifications embedded in securitization agreements severely limited the program's impact.

The debates over loan modifications were not informed by good data (Dugan, 2008). Loan servicers and the Hope Now Alliance were under significant pressure to report large numbers of modifications, but White (2008) found that only 35% of loan modifications resulted in reduced monthly payments. In 45% of cases payments actually increased, and many modifications were temporary.

In the first half of 2008, some members of Congress wanted the federal government to be more aggressive in mitigating foreclosures and proposed that the Federal Housing Administration refinance distressed loans. Opponents of such proposals argued that many borrowers were actually speculators who should not be helped. In some markets and submarkets, significant shares of all foreclosures were of non-owner-occupied properties, either investment rental properties or vacation homes. Brinkman (2008) found that 18% of foreclosures in the fall of 2007 were of non-owner-occupied properties. However, claims that the program would aid speculators were mostly a distraction, as congressional proposals for refinancing were designed only for borrowers who could document owner occupancy.

By the summer of 2008, with foreclosures continuing to escalate and a national election approaching, there was more pressure to do something about the foreclosure problem. Indymac, a $32 billion California thrift[7] that had been heavily involved in high-risk lending, failed in June, becoming the largest thrift failure in U.S. history. In late July, the Housing and Economic Recovery Act (HERA) of 2008 was passed and signed into law. HERA was a complex bill that contained tax breaks for residential builders, a complicated first-time homebuyer's tax credit, and a variety of other initiatives (U.S. Senate Banking Committee, 2008). Two foreclosure-related initiatives were at the core of HERA. First, the $300 billion Hope for Homeowners (H4H) program, run by the FHA, was intended to refinance distressed borrowers. Second, HERA contained $3.92 billion in supplemental Community Development Block Grant (CDBG) monies for a new, formula-funded program later called the Neighborhood Stabilization Program (NSP) to provide grants to state and local governments for reclaiming and redeveloping vacant, foreclosed homes.

HERA also contained an important provision that created a new, stronger regulator for the GSEs that, if necessary, could take substantial control of the companies. It also gave the Treasury Department the ability to lend to or invest in the GSEs (Weiss, Getter, Jickling, Keightley, & Murphy, 2008). In testimony on the need for these provisions before the Senate Banking Committee, Treasury Secretary Paulson said, "If you've got a squirt gun in your pocket, you probably will have to take it out. If you have a bazooka in your pocket and people know it, you probably won't have to take it out" (Isadore, 2008). Though this suggested that HERA would help stabilize the GSEs, it had the opposite effect, as investors feared that the Treasury Department would take over the companies and wipe out stockholders (Robb, 2008). As a result, the GSEs' stock prices tumbled.

HERA gave HUD only two months to issue regulations implementing H4H and NSP. As initially implemented, H4H required lenders to write-down existing mortgages and refinance borrowers into loans for not more than 90% of their homes' current values. However, the program was not designed to deal with the many borrowers, especially in high-cost areas, who had second mortgages layered on top of their primary loans.[8] Holders of junior loans were not inclined to agree to refinancings that would wipe out their interests. As a result, the program received only 312 applications from across the entire country in its first two and a half months of operation (ElBoghdady, 2008). HUD modified the program in November 2008, increasing the maximum loan amount to 96.5% of appraised value for some loans, but the changes were not enough to make the program effective.

In the case of NSP, HUD was charged with quickly developing a formula for allocating the $3.92 billion in funds across existing CDBG entitlement communities as well as states. The statute required that each state receive something.[9]

Between the time that HERA was passed in late July 2008 and the time its key programs were actually rolled out in early October 2008, a great deal occurred in the broader housing and financial markets. Housing prices fell quickly in many regions and foreclosures continued to increase, with larger increases outside of the subprime sector. The GSE stock prices continued to decline, imperiling the solvency of Freddie Mac in particular. In early September, Treasury Secretary Paulson announced that he would provide financing to the GSEs and direct the Federal Housing Finance Agency (FHFA), in its new role as GSE regulator, to place both Fannie Mae and Freddie Mac in conservatorship, giving FHFA substantial operational control of both companies.

In the third week of September, the investment banking firm Lehman Brothers filed for bankruptcy after Secretary Paulson stated that the Treasury Department would not arrange for its rescue or sale, as the Treasury Department had done for Bear Stearns in March. Many consider Lehman Brothers' failure a key precipitator of the broader financial crisis that followed. Significant credit submarkets, including money markets that serve the short-term financing needs of many larger firms, seized up within days of the Lehman collapse. The day after the Lehman failure the Primary Reserve Fund, a $64 billion money market fund holding substantial Lehman short-term debt, ***broke the buck***, announcing that it would pay investors only $0.97 on the dollar, something no money market fund had done before (Nocera, 2008; Stecklow, 2009). Then, the Federal Reserve announced that it was lending $85 billion to the insurance giant AIG, which had sold over $400 billion in credit default swaps and was likely to experience many claims as credit markets deteriorated. This action aimed to avoid greater panic when investors tried and failed to claim their credit default swap coverage in the event of defaulting bonds.

By the end of the third week in September, Treasury Secretary Paulson proposed, in a now infamous three-page memo, the $700 billion Troubled Asset Relief Program (TARP; Nocera, 2008). Soon after, it was included in the 110-page Emergency Economic Stabilization Act (EESA), which became law in early October after fits and starts in Congress, including an initial rejection in the House. TARP was promoted as an effort to purchase mortgage-backed securities and possibly mortgages themselves from financial institutions in order to rid them of bad assets and reduce investor uncertainty. However, some argued that TARP funds would be better used to purchase stock in troubled banks because this would directly increase bank capital which then could be leveraged to increase the lending capacity of the banks. One of the difficulties with using TARP funds to purchase troubled securities was how to define an appropriate value for the securities. If they were purchased at current market value, which would likely be very low, this would do little to improve banks' balance sheets. If they were purchased at prices substantially above current market value, this might be viewed as the government rewarding institutions for risky behavior, plus the banks would get as new capital only the difference between the new price and market value. By mid-October, the Treasury Department switched gears and directed TARP funds to a Capital Purchase Program through which it could purchase preferred stock in financial institutions. The Capital Purchase Program soon became the principal use for the first $350 billion in TARP funding.

Despite the hundreds of billions of dollars in assistance flowing from TARP to large financial firms, Secretary Paulson refused to consider using even a modest portion of the funds in any direct program to assist homeowners at risk of foreclosure, although the authorizing statute specifically gave him the authority to do so.

With the economy worsening, foreclosures continuing at high levels, and credit markets remaining tight, the incoming Obama Administration obtained Congressional approval to draw on the second half of the $700 billion TARP in January 2009, before Barack Obama officially took office. Larry Summers, the incoming director of the National Economic Council, wrote in a letter to Congress that the new administration would provide stronger oversight and greater accountability for TARP funds, and would use $50 to $100 billion of the funds for foreclosure mitigation (Summers, 2009). The letter also suggested that the new administration would seek to change bankruptcy laws to permit cramdowns of primary residence loans.

In February 2009, the Obama Administration announced its much-anticipated plan to slow foreclosures, the Making Home Affordable (MHA) program. In addition to pledging more capital to the GSEs, MHA included two primary programs. First, it would allow for the refinancing of existing GSE loans up to 105% of the current value of the home. The GSEs were prohibited from funding mortgages beyond 80% of home value, but private mortgage insurance had traditionally allowed borrowers to go above this level. However, the credit crisis had prompted severe retrenchments in the availability of private mortgage insurance, especially in markets where home values had dropped. Thus, this part of the plan was an effort of the federal government, which now essentially controlled and stood explicitly behind the GSEs, to absorb these greater risks in lieu of the mortgage insurance industry.

The second and more ambitious component of MHA required loan servicers to reduce mortgage payments to 38% percent of the borrower's income, after which the federal government would pay 50% of further reducing them to 31% of the borrower's income. The plan would also compensate servicers for modifying loans and provide modest annual incentives to borrowers who remained current in loans following modification. MHA also provided a federally sanctioned protocol for evaluating borrower claims for loan modifications and for implementing the modification process. Policymakers hoped that a federally standardized modification procedure would influence servicer practice, increase the pace of payment-reducing modifications, and provide loan servicers with a stronger defense against mortgage-backed securities investors threatening to sue over modifications that harmed their interests.

The plan was complemented by the near simultaneous introduction of HR 1106, which resurrected the bankruptcy cramdown proposal and also called for protecting servicers from lawsuits by mortgage-backed securities investors when they modified loans in ways that might harm those investors' interests. Many argued that the threat of bankruptcy cramdowns was necessary to encourage loan servicers to participate in MHA in large numbers. However, the Senate rejected the cramdown provision, while keeping the shield for servicers against investor lawsuits. The final bill, the Helping Families Save Their Homes Act (HFSTHA), was signed into law on May 20, 2009. While it is too early to evaluate the impact or effectiveness of the MHA plan at this writing, it was clearly much more ambitious than anything previously attempted. But the failure to pass the bankruptcy cramdown and the continuing obstacles that second mortgages pose to loan modifications are likely to prove significant challenges for the program.

Although it did not include the bankruptcy cramdown, HFSTHA did give loan servicers some protection from lawsuits if they modified mortgages, as noted above. It also included a new requirement on most mortgages that lenders provide tenants of foreclosed properties with 90-day notice prior to eviction. This latter provision is particularly important for neighborhoods with large concentrations of foreclosed properties. In many lower-income neighborhoods, smaller rental properties are a substantial share of foreclosed properties. This provision keeps them occupied longer, reducing the problems associated with vacant buildings.

Even before MHA was introduced, a growing number of loan modifications in late 2008 and early 2009 reduced loan payments rather than keeping them the same or increasing them with arrearages, in part because property values were falling and lenders wanted to slow the accumulation of REO properties (Fitch Ratings, 2009). However, the broader economic crisis meant that foreclosures picked up again after a few months of voluntary moratoria by major lenders. The new wave of foreclosures was largely driven by rising levels of unemployment. Borrowers suffering from long spells of unemployment are less likely to be helped by moderate reductions in mortgage payments. Foreclosure becomes much more difficult to prevent in these cases.

Public furor was high in the spring of 2009 over bonus payments to executives at financial firms like AIG that had received billions of dollars in federal assistance. This made it increasingly difficult for federal policymakers outside the Federal Reserve to provide more assistance to financial firms, especially if it would require going to Congress for more budgetary authority. As a result, the Treasury proposed a pair of *legacy assets* programs that would use Federal Deposit Insurance Corporation (FDIC) loan guarantees and the existing pool of TARP funds to purchase loans and mortgage-backed securities, removing them from financial institutions' balance sheets as proposed in the original TARP bill. At this writing, these programs are still being developed, but the balance sheets of the financial institutions holding these assets have improved to the point that the institutions are not highly motivated to sell them. In early April 2009, the U.S. Financial Accounting Standards Board gave banks more flexibility in applying mark-to-market accounting to their toxic assets, which allowed banks to hold on to the assets without marking them down to very low values.

Key Characteristics of the Foreclosure Crisis Policy Debate and Response

Mallach (2009) has aptly described the federal response to the foreclosure crisis through early 2009 as "halting, uncertain, and inadequate" (p. 21). At least three overarching themes characterized these policy debates and often stymied federal responses or made them inconsistent. First, fundamental disagreements over the proper role of the federal government in housing finance were at the core of many of the debates. The very existence of the crisis has been employed as evidence by both those promoting a stronger federal role in housing finance as well as by those arguing against federal involvement. Those who cited weak regulation as a principal cause of the crisis have called for a stronger federal role in regulating mortgage and financial markets (Stiglitz, 2008). On the other side of this debate, some conservatives have argued that the Community Reinvestment Act (CRA) was a principal cause of the crisis (Husock, 2008; Wallison, 2008). I briefly review the evidence on the role of the CRA in the crisis below.

Second, the intensity and profile of the crisis radically altered the traditional process for making housing finance policy, bringing in a much wider set of actors and voices. It is not clear, however, whether this informed policy with clearer evidence. Opportunistic analysts and pundits offered their own diagnoses and prescriptions for financial and housing markets. For the first time, housing policy became a frequent subject of discussion on political talk radio and television. Partly because it was a presidential election year, debates were frequently highly polarized and partisan, with conservative pundits blaming the crises on government interventions and their liberal counterparts blaming unbridled free markets.

The third theme that characterized the federal response was that it occurred during a crisis. When the broader financial crisis reached a climax in September 2008, the pace, transparency, and deliberative nature of policymaking changed dramatically. EESA arguably represented a monumental shift in the nature of federal involvement in financial markets, but went from introduction to law in less than three weeks nonetheless. Its principal component, TARP, provided the executive branch a historically unprecedented level of discretion to determine how to distribute or obligate hundreds of billions of dollars in federal funding.

Some Potential Implications for Local Housing Markets and Planning

The foreclosure crisis, and how markets respond to it, will likely have countless direct and indirect effects on housing and metropolitan development. I highlight some possible effects of particular relevance to planning practice and scholarship. Planning scholars and practitioners should devote significant attention to determining the extent to which these effects materialize.

More Rental Housing, Smaller Homes, Fewer Condos?

Larger down payments, major reductions in layered home financing, and lower maximum debt-to-income ratios for borrowers should all be expected to reduce the purchasing power of prospective buyers of one- to four-unit residential buildings, lowering homeownership rates in the long term. The U.S. homeownership rate dropped from 69.2% in the fourth quarter of 2005 to 67.5% in the fourth quarter of 2008, which is the same level as the first quarter of 2001, before the most recent high-risk mortgage boom (U.S. Census Bureau, 2009a).

Changes in mortgage markets are likely to affect different rental housing submarkets differently. Higher-cost submarkets may have few shortages in the near term, especially in large cities where recent years' excess supply of condominiums may be converted to rental units.[10] However, demand at the lower end of the rental market might be expected to increase as distressed former homeowners seek rental housing and new households cannot afford to own homes. Some portion of vacant foreclosed homes will likely be converted to rental housing as investor-landlords purchase properties, but such housing tends to be of substandard quality, since rents for scattered-site single-family units often do not cover debt repayment, profit for the owner, and adequate maintenance, especially in lower-income submarkets (Mallach, 2007).

Lower home prices should partly mitigate the effects of lower debt-to-income ratios and higher down payment requirements in some places. However, in many places the affordability of owner-occupied homes will not improve because declines in home prices will not fully compensate for more restrictive down payment and underwriting requirements. Ironically, the income and wealth thresholds for buying a home may increase the most in places where values fell less, but financing became much more restrictive.

Overall, stricter underwriting may lead to increased relative demand for smaller homes and more affordable developments versus larger, more expensive homes. These effects may be strengthened by demographic trends and by preferences and policies favoring increased environmental sustainability. Recent census figures suggest that there may already be some movement in this direction. The median area of a newly constructed single-family home in 2008 was 2,153 square feet, down almost 5% from the peak of 2,259 square feet in 2006 (U.S. Census Bureau, 2009b). The median in 2002, at the beginning of the most recent high-risk lending boom, was 2,115 square feet. Moreover, in a recent survey of builders by the National Association of Home Builders, 88% of respondents reported that they were building smaller homes than in the past (National Association of Home Builders, 2009).

Even though tighter mortgage markets may foster preferences for smaller single-family homes, a popular trend in urban housing over the last 20 years may not fare so well. Condominium buildings pose particular challenges during foreclosure crises. As vacancies in condominium projects mount, association fees go unpaid and common costs spread over occupied units rise. Industry estimates suggest that more than 90,000 new condominium units will be completed this year, at a time when many buildings are already seeing high vacancy rates (Timiraos, 2009). In early 2009, Fannie Mae announced a new set of policies, saying that it would stop purchasing mortgages in condominium buildings where fewer than 70% of the units had been sold (up from a requirement of 51%), where 15% or more of owners are delinquent on association fees, or where more than 10% of units are owned by a single entity. The overall glut in condominiums in many markets, as well as such restrictions in purchase financing, will be challenges for new projects involving condominiums.

Smart Growth, Mixed Use, and Housing Choice?

While new residential development is likely to be slow for some time, planners now have a more powerful financial argument for promoting mixed-income housing and diverse land uses within their communities: fiscal diversification. Some jurisdictions that relied primarily on single-family properties for their tax bases have been seriously impacted by foreclosures and falling home values. Multifamily rental housing, although not very strong in many markets, has generally not lost as much value as have single-family units. Increasing the diversity of land uses and especially of housing tenure types and price points will improve a locality's long-term revenue stability. Fiscal impact analysis should be restructured to focus much more on long-term risks, rather than simply on short-term revenues and costs.

At the same time, lenders, investors, and households are likely to be more risk averse than ever, which could work against higher densities and mixed-use development. Misplaced or incorrect perceptions of the risk associated with such developments may combine with an overall return to a more conservative real estate environment to make it more difficult to finance progressive residential or other types of development.

Effects on Racial and Economic Segregation?

While the causes of residential segregation are complex, as fewer low- and moderate-income households are able to purchase homes, or are limited to less expensive homes, their housing options will be more constrained. If rental housing is more spatially concentrated within the broader metropolitan housing market, other things equal, overall levels of racial and economic segregation levels may worsen. This will mean that the siting of new rental housing will become increasingly important to providing fair housing opportunities. State, federal and nonprofit agencies responsible for enforcing fair housing law will need to pay particular attention to local government's responsiveness to rental housing proposals.

Key Issues in Federal Housing Finance and Neighborhood Stabilization Policy

The foreclosure and financial crises have stimulated or revived federal policy debates across a broad range of topics. Some of these federal issues could greatly influence local housing markets. Local planners should monitor the following topics closely.

Federal Neighborhood Stabilization Programs

The NSP has been the principal federal response to the accumulation of foreclosed properties. The first version of NSP (sometimes referred to as NSP I), was adopted as part of HERA, and was first implemented in the fall of 2008, with $3.92 billion going to local and state governments beginning in the spring of 2009. The American Reinvestment and Recovery Act (ARRA) of 2009 included another $2 billion for what has been called NSP II. ARRA also changed some of the rules of the NSP I program (U.S. House of Representatives, 2009).

Mallach (2009) and others have criticized the design of NSP I in much more detail than discussed in this article.

One common complaint was that the 18-month timeline for the program was too short to develop well-designed local property reclamation programs. The NSP formula guaranteeing minimum funding levels to all states, including those without appreciable problems with foreclosed or vacant properties, has also been criticized. The HERA statute required that local government grant recipients purchase foreclosed properties from lenders or loan servicers at discounts of 5–15% below appraised value, which could encourage inflated appraisals. The statute also proscribed selling properties for prices that exceeded the sum of their acquisition and redevelopment costs, meaning that a local government could not use profits from one property to subsidize the redevelopment of another property that might be sold at a loss.

The changes to NSP in ARRA responded to some of the concerns that had been expressed about the program, including creating a competitive rather than formula-funded program (U.S. House of Representatives, 2009). But ARRA did not resolve all of the problems. In fact, one change made NSP II somewhat less flexible by restricting redevelopment to housing uses only, while NSP I had allowed redevelopment for uses other than housing. Given the oversupply of housing in some communities impacted by foreclosures, this constraint is likely to impede some good redevelopment proposals.

The competitive design of NSP II, while not without flaws, is at least conceptually superior to the formula funding of NSP I. Allocating funds directly to states in NSP I appeared, in some cases at least, to result in a formulaic pass-through to counties and localities, many with few problems with foreclosed properties. It is also true that many local governments do not have significant experience acquiring and redeveloping vacant and foreclosed properties. NSP II emphasizes local capacity and is designed to favor efforts that can leverage NSP dollars with other funds.

Despite the limitations and constraints of NSP, the program may help spawn significant innovation in local efforts to reclaim and redevelop vacant properties. Given the scale of the problem in many metropolitan areas, NSP funds alone are unlikely to make a substantial dent in the vacant property problem. In many places, funds will have to be leveraged with other housing and community development subsidies as well as with private capital. Moreover, regional efforts to coordinate NSP and NSP-type activities will be essential to maximize the program's impact. Intrametropolitan competition for scarce homebuyers or resources could damage the program's cumulative effect.

Since some localities appear to be avoiding using NSP funds for rental housing projects, fair housing problems may result. Moreover, given the direction of credit markets, program funds will be insufficient to leverage many potential buyers into homeownership, especially in higher-cost markets. Early research on local plans under NSP I suggest that approximately twice as much funding is being devoted to homeownership programs as to rental housing (Lovinger & Sheldon, 2009). Even in their plans to meet an NSP 25% set-aside requirement for households with incomes below 50% of the area median, over a quarter of local government recipients do not intend to serve this population with rental housing, and more than 50% plan to include a component of homeownership programming in serving this population (U.S. Department of Housing and Urban Development, 2009).

Strengthening Mortgage Market Regulation

There are at least three issues at the center of federal policy debates concerning new mortgage market regulations.[11] First, the degree and nature of supervision of different types of lenders (e.g., independent mortgage companies vs. banks) vary greatly and are not in proportion to the lenders' market power or impact. Second, regulation to protect consumers in U.S. mortgage markets has relied on prescribed consumer disclosure documents that are presented to borrowers, often at the loan closing. The crisis has called into question the adequacy of this fundamental approach. Third, federal law has often allowed national banks and thrifts and their subsidiaries to operate without regard to state consumer protection laws. State regulators have argued against this.

Federal and state efforts to protect consumers and regulate mortgage markets have been understood for some time to be inadequate. In particular, many argue that it made little sense that the mortgage companies dominating the highest-risk mortgage markets were subject to almost no federal supervision, while depository institutions that generally played small or indirect roles in the crisis were more heavily supervised through regular examinations (Essene & Apgar, 2007; Immergluck, 2004). Some have called for a new federal consumer protection agency with authority over all mortgage lenders (Warren, 2007; Immergluck, 2009) complementing rather than displacing federal and state banking regulators. The goal would be to create a muscular federal agency with consumer protection as its primary mission.

Barr, Mullainathan, and Shafir (2008) argued that consumer disclosures have proven to be an inadequate means of consumer protection. The evidence from behavioral finance suggests that individuals who face complex decisions like those involved in taking out a mortgage loan often simplify decisions into one or two basic choices or rely on advisors, such as mortgage realtors, mortgage brokers or lenders, even when these advisors have incentives to operate against consumers' interests. The major alternative approach is proscriptive regulation, prohibiting particular sorts of loan terms or practices.[12]

Most state regulators and consumer advocates argue that states should be able to supplement consumer protection and fair lending laws to protect their citizens. At the same time, there is a strong argument for a uniform, minimum level of regulation that would protect all borrowers in the United States, regardless of state action. Resolving this will not be simple, as the preemption powers provided by national banking charters are lucrative and date back to the nineteenth century. Opponents of limiting preemption powers argue that state-specific consumer protection laws are overly burdensome and inefficient. At the same time, much of real estate law, including foreclosure procedures, already varies by state. Arguing that all laws and regulations that govern mortgage finance should be uniform across the nation ignores the long tradition of state regulation of real estate activity. Moreover, the costs of high-risk lending to local communities are now painfully obvious and argue against preemption of state law in this area.

In May, the Obama Administration issued a memorandum directing federal regulatory agencies not to preempt state laws unless explicitly directed to do so by federal statute. The memo also directed regulators to review preemption activities over the previous ten years, stating that when ". . . a regulatory statement of preemption or codified regulatory provision cannot be so justified, the head of that department or agency should initiate appropriate action, which may include amendment of the relevant regulation" (Obama, 2009, p. 1). This essentially directed federal regulators to rescind recent preemptive actions overriding state consumer protection laws. While this was significant, federal preemption could still occur through legal challenges unless Congress takes action to affirm states' regulatory authority in this area.

The Future of the Federal Involvement in Secondary Markets and Securitization

In September 2008, Fannie Mae and Freddie Mac were placed under federal conservatorship to be controlled by their regulator for an indeterminate period of time. It quickly became clear, however, that the GSEs were unlikely ever to return to their pre-conservatorship forms. In October 2008, Federal Reserve Chairman Bernanke (2008) outlined several possible options for the future of federal involvement in mortgage secondary markets; these included privatization, on the one hand, or tying the GSEs more closely to government, perhaps through some sort of more regulated public utility or cooperative model, on the other.

Privatization would involve selling off pieces of the GSEs to private investment firms. However, without major changes in regulatory systems and in the mechanics of securitization, such an option could recreate many of the problems of the high-risk debacle. Advocates for a sustained federal role in mortgage secondary markets argue that the federal government should help control and mediate the flow of mortgage market capital into neighborhoods that are ill equipped to be connected directly to the spigot of global capital markets (Immergluck, 2009). Standardizing and regulating mortgage securitization could prevent many of the problems caused by the complex and atomistic system that funded loans with private-label mortgage-backed securities.

One option mentioned by Bernanke and others would be to reconstitute the GSEs as some form of public-private partnership or public utility. The latter model would create a new private firm with severely limited ability to advocate for public policies and whose profit and/or pricing would likely be overseen by some form of public regulatory commission. Another option would be to reconstitute the GSEs to resemble the Federal Home Loan Banks, essentially as regulated firms owned cooperatively by the mortgage originators who utilize the firm's secondary market functions. However, increasing concentration in the mortgage lending industry may mean that such a scheme would give a few large mortgage lenders effective control over such a cooperative.

Regardless of the future structure of secondary markets, it will be important to improve the accountability and transparency of all forms of securitization. One tool for doing this is a broad system of assignee liability under which the holder of a security will bear liability for any unfair, deceptive, or prohibited practices in the origination and servicing of a loan, no matter who the loan originator was or how many intermediaries have held subsequent securities based on it. Without such investor liability, the systems to increase transparency and responsible lending are unlikely to be sustainable. Previous efforts at the state level met with resistance from the credit rating agencies, who lobbied against state laws that included assignee liability provisions (Immergluck, 2009). By threatening to downgrade or refuse to rate mortgage-backed securities in states with such laws, the ratings agencies put severe pressure on state policymakers to omit assignee liability provisions from their regulations. Federal assignee liability provisions would make it harder for dominant market players to influence regulatory power in this way.

The Future of the CRA and Fair Lending

The 1977 CRA was passed at a time when depository institutions, especially savings and loans, dominated mortgage lending markets. The law exempts nondepository lenders from coverage, in large part because its authors did not foresee that originate-to-hold lenders would constitute as small a portion of the home loan market as they have in recent years. For many years, various commentators have argued that CRA should be expanded to cover all entities engaged in the origination and funding of mortgage, small business and consumer credit. Such legislation has been introduced several times without success (Squires, 2003; Immergluck, 2004). Given the massive amounts of federal funds pledged to a wide variety of non-bank financial institutions, the justification for expanding CRA has become stronger.

Regardless of whether CRA is expanded, it is critical for local housing planners and researchers to monitor the implementation and enforcement of CRA and fair lending laws in the near term. The pressure on banking regulators to support the financial sector and, especially banks and thrifts, may have a chilling effect on fair lending and CRA enforcement. Moreover, the dramatic changes in mortgage and housing finance may make it harder for regulatory agencies to evaluate CRA performance and identify potential discrimination.

Those conservative commentators who argue that the CRA was a significant cause of the foreclosure crisis will likely resist efforts to expand and enforce the CRA and fair lending laws (Husock, 2008; Wallison, 2008), but there is no substantive evidence for their assertions. Canner and Bhutta (2008) analyzed Home Mortgage Disclosure Act data for 2005 and 2006, during the peak of the second high-risk lending boom, and found that 57% of higher-cost loans were to middle- or upper-income borrowers or neighborhoods. They also found that only 6% of all higher-priced loans were eligible for CRA credit. Canner and Bhutta also examined loan performance data for borrowers in two groups of neighborhoods that were very similar except that the lending in one group received credit under the CRA. They found that the repayment performance of loans in the CRA-eligible tracts was actually slightly better than those in the ineligible tracts.

Two other recent studies have looked at the loan performance of CRA-eligible loans versus non-CRA loans. Ding, Quercia, and Ratcliffe (2008) found that community reinvestment loans were roughly 70% less likely to default than otherwise similar subprime loans. They attribute the large differences in performance to the role of mortgage brokers and risk-inducing loan terms in the subprime segment. Laderman and Reid (2008) analyzed a large database of loans in California and found that CRA-eligible loans were significantly less likely to be in foreclosure than otherwise similar loans originated by independent mortgage companies, which are not regulated by CRA. Most importantly, they found that CRA-eligible loans tended to have characteristics that reduced risk, including fixed and lower interest rates.

Federal policy in these areas promises to have important impacts on local housing markets and development patterns. Regardless of how markets and federal policymakers respond to the foreclosure crisis, however, planners should become more proactive in identifying trends in real estate and financial markets that have problematic implications for development in their communities. The crisis provides a strong lesson that planners should not merely go with the flow of real estate booms or rely solely on market tests for development proposals. Financiers' or investors' participation in a project is no substitute for local planners' thoughtful forecasting and analysis. Sound planning can at least moderate the deleterious impacts of credit bubbles on local communities.

Notes

1. These include two key laws effectively preempting many state lending regulations: the Depository Institutions Deregulation and Monetary Control Act and the Alternative Mortgage Transaction Parity Act. See McCoy and Renuart (2008) and Immergluck (2009).
2. Alt-A loans are loans for which the borrower pays a premium in exchange for not having to provide the usual documents to verify his or her income.
3. Delinquency rates are from the Mortgage Bankers Association's National Delinquency Survey (Mortgage Bankers Association, 2009).
4. See Immergluck (2008) for a more extensive description of the LPS Applied Analytics data.
5. The four categories of REO density are: *low*, containing zip codes in the bottom quartile of REO density; *moderate*, containing zip codes from the 25th percentile to the 75th percentile; *high*, containing zip codes in the 75th to the 90th percentile of REO density; and *very high*, containing zip codes above the 90th percentile.
6. Researchers have only recently examined the evidence on cramdowns' effects on interest rates. Lending industry representatives argued that the proposal would raise interest rates on owner-occupied home loans by 1.5 percentage points because, without cramdown protection, lenders would require higher interest rates to compensate for potentially greater losses. They have cited the higher interest rates for investment property mortgages as evidence of such an effect (Mortgage Bankers Association, 2008). But such loans likely cost more to finance because investor property mortgages involve other forms of increased risk, including higher default risk. Levitin and Goodman (2008) measured the impact of cramdowns on interest rates using longitudinal historical data from federal judicial districts, which varied in the degree to which they allowed mortgage cramdowns on principal residences from 1979 to 1993. They found that mortgage cramdowns resulted in increases in interest rates of only 0.05 to 0.15 percentage points, far less than the 1.5 percentage points claimed by the Mortgage Bankers Association.

7. A *thrift* is a financial institution that accepts deposits like a bank. However, thrifts evolved from *savings and loans*, which were formed primarily to originate and service home loans. Thrifts operate under different charters than state or federally chartered banks, and are regulated by the federal Office of Thrift Supervision. Banks are regulated by state banking departments and by the Federal Deposit Insurance Corporation, the Federal Reserve, or the Office of the Comptroller of the Currency, depending on their charters. Nondepository financial institutions, which include mortgage and finance companies, are not directly regulated by any of these agencies, but are subject primarily to state regulators and the Federal Trade Commission for compliance with consumer protection laws.

8. For example, the proportion of senior mortgages with associated junior mortgages increased in Massachusetts from 26% in the second quarter of 2003 to 65% in the third quarter of 2005 (Rosengren, 2008).

9. While HERA provided some direction for allocating the funds, there are no consistent, small-area data on foreclosures or foreclosed properties that are publicly available. HUD used free or very low cost data and a regression approach to predict foreclosures at the census tract level, and then allocated funds according to these estimated foreclosures. The census tract values of the resulting indicator of what HUD called foreclosure risk was then made available for states and localities to use in allocating funds within their own jurisdictions.

10. Condominium associations often limit or restrict leasing of individual units, and converting entire buildings of individually owned units to rental is also challenging.

11. This is a broad and complex area, and there are many other issues. I emphasize three key issues that are fundamental to the entire structure of mortgage market regulation. See Immergluck (2009) for a broader discussion of regulatory issues that have been raised by the crisis.

12. Another alternative is to define a *default* loan product, which would have minimal potential legal liabilities for lenders, like a 30-year, fixed-rate mortgage. Variations from this product, like adjustable rates, would trigger potentially higher liabilities, thus encouraging lenders to market the safer default product more heavily. Barr, Mullainathan, and Shafir (2008) propose such an alternative.

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STATEMENT OF FRANK ALEXANDER

Mr. ALEXANDER. Thank you very much, Mr. Chairman. I am delighted to be here today, Congressman Scott, Congressman Westmoreland, we appreciate very much your taking the time out of your schedule to be a part of this hearing, to hold the hearings here in Atlanta.

As Ambassador Young said, it is my conviction that part of what got us here is that for the past 30 years, we have lived in a deregulated, an unregulated, market. We simply have forgotten the lessons that our parents taught us from years ago. When most of us were growing up, we were always told do not bet the house, do not mortgage the future. Well, we have done both.

It is my hope that the hearings of the committee will yield the lessons to be learned as we move forward. And I offer to you this morning a series of lessons for us to learn, many of which my brothers and sisters on this panel have already touched on, so I will touch on very quickly. I expand on them in my written testimony.

I divide the lessons into three different categories. The first are the lessons to be learned in responding to the immediate crisis. The second is the lessons to be learned in protecting our neighborhoods. And the third, the lessons to be learned to prevent this from reoccurring in the future.

First, in responding to the immediate foreclosure crisis, the first lesson to learn is that mortgage modification simply will not occur when the debt exceeds the value of the property. We debated this, you all debated this at the time of the TARP bill. It was debated again by the current administration at the time of the stimulus bill. The loan modifications will not occur when debt exceeds value.

What needs to be done, quite simply, is to change the bankruptcy code to give a bankruptcy judge the power to reduce debt to value. You can do this on commercial mortgages, you can do this on cars and boats, but not homes. This preferential or differential treatment for homes is what caused part of the crisis, it is not a solution to it.

My second lesson to be learned from the current mortgage crisis is we do not know what is being foreclosed upon today. The data is not there. Our banks and mortgage companies cannot tell us much about the property they are foreclosing upon. We know the kind of mortgages that were originated, but we do not know of the 10,000 condos in Miami or the 12,000 properties being foreclosed on tomorrow, how many are occupied. We do not know how many of them are occupied by owners or by tenants. We do not know how many are unoccupied.

Third lesson, we often do not know who is foreclosing. With the advent of the mortgage electronic registration system a decade ago, we created what we thought was an efficient system, which has rendered havoc. We no longer today know who holds the promissory note or the deed to secure debt that is foreclosing on us tomorrow.

Fourth and final point about the current crisis is simply the importance of notice to occupants. In the Protecting Tenants at Foreclosure Act that you all passed last May, you provided that tenants' leases can continue post-foreclosure, but you did not provide that tenants are told that the property is coming up for foreclosure, and most States do not. Very simple point, tell the tenants they are facing foreclosure.

With respect to the impact of the foreclosure crisis on our neighbors and our communities, I have some additional lessons.

The neighborhood stabilization program is hugely important, but the economic climate in which you all passed it last June a year ago and amended it in May—in last February—for $6 billion, is no longer the economic crisis today. You need to give Secretary Donovan discretion to adjust that program to fit the needs, whether a Fulton County, or a DeKalb County or a Cuyahoga County.

Next point about the foreclosure crisis on others is we need to make sure that HUD's inventory complies with local laws. Right now, the Secretary has discretion, Secretary Donovan, to make sure his properties comply with local laws. But Congress has not required it. It needs to be done by the Secretary or Congress. There is no excuse for the HUD inventory to be substandard.

We need to know who owns the foreclosed properties is my third lesson. The simple proposition here is to require the recording of every single foreclosure deed within 30 days. In a declining market, lenders have incentives not to record their deeds and we do not know who owns the properties that are killing our neighborhoods post-foreclosure.

In this connection, we need to learn that in time for local governments to consider enacting vacant property registration statutes. Several jurisdictions are doing this. Not a Federal matter, but a State matter. To require that property which remains vacant for 30, 60, 90 days, that the owners of that property notify the government officials of who has responsibility for the property.

My final point for the mitigating the impact on others is property taxes, Mr. Manning's area. We now know that property tax escrows were dropped in recent years. It is time to make the monthly escrow of property taxes mandatory. It is time to make lenders who foreclose notify the tax assessor, because those lenders are continuing to ride illegally homestead exemptions post-foreclosure.

Other points about lessons to be learned, including prohibiting inherently dangerous products. As Mr. Brennan and Senator Fort have indicated, many mortgages are simply inherently dangerous and need to be prohibited. The Federal Government needs to set a minimum floor, not a maximum, but a minimum floor and then allow States to regulate above that.

We need to reinvigorate mortgage insurance. Whatever happened to private mortgage insurance, and I suggest that should be the credit rating agency.

And then finally, we need to standardize once again the conforming mortgage and explore at the State-level anti-deficiency legislation.

Thank you very much, Congressman.

[Applause.]

[The prepared statement of Mr. Alexander follows:]

Testimony of

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Domestic Policy Subcommittee
Oversight and Government Reform Committee

Committee Room 450 of the Georgia State Capital Building
206 Washington Street Southwest
Atlanta, Georgia
Monday, November 2, 2009

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

Lessons to Learn from the Current Mortgage Crisis

Chairman Kucinich, Representative Westmoreland, Members of the Subcommittee, it is my pleasure and honor to be invited to meet with you today to discuss the continuing crisis in residential foreclosures and the emerging commercial real estate crisis.

Over the past 18 months Congress has taken dramatic steps to respond to the most significant crisis in mortgage finance in our lifetimes. In the summer of 2008 it passed the Housing and Economic Recovery Act of 2008;[1] last February it passed the American Recovery and Reinvestment Act of 2009;[2] and last May it enacted the Helping Families Save Their Homes Act of 2009.[3] Each of these Acts has addressed in significant ways different parts of the current crisis, and many of the statutory provisions and new programs have already had and will continue to have strong positive impact on reducing the harmful effects of this current crisis. As a citizen, a taxpayer, a homeowner, I thank you for what Congress has done thus far.

Creating tactics and programs to respond to an immediate crisis is vital, but it is not the same as designing strategies and policies based upon an accurate understanding of what caused the crisis, and how the crisis can be prevented in the future. One of the most

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1 Pub. L. 110-289.

2 Pub. L. 111-5.

3 Pub. L. 111-22.

valuable components of this series of hearings by the Domestic Policy Subcommittee is to probe the questions of what went wrong, why did this occur, and what changes need to be made to prevent it from occurring in the future. It is indeed fair and wise to ask – before the crisis fades into distant memory – what lessons can we learn for the future.

The lessons we have to learn can be divided into three categories: (i) how to respond to the immediate foreclosure crisis, (ii) how to mitigate the impact of widespread foreclosures on our neighborhoods and local governments, and (iii) how to avoid this crisis from reoccurring in the future. These lessons require in part, but only in part, additional actions to be taken by Congress. In many instances the lessons to learn are best left to the individual states or to local governments. In some contexts actions are required by the federal government but in a way that preserves discretion in state or local governments to undertake additional actions.

I. Responding to the Immediate Foreclosure Crisis

1. Mortgage Amounts and Property Values. A major contributing factor to the current crisis is that borrowers and lenders made loans based on completely unrealistic assumptions about ever rising property values. It has also quickly become clear that in the face of rising delinquencies and foreclosures all of the programs and hopes for loan modifications were largely in vain. Whether found in the justifications for the original bailout bill one year ago,[4] or in the attempts by the Departments of Treasury and Housing & Urban Development to achieve large scale modifications of residential loans,[5] there are simply too many structural barriers in the nature and function of the secondary mortgage market to allow modifications to occur in significant volume. The presence of a second mortgage creates a virtually insurmountable obstacle to a voluntary modification of a first mortgage. The structure of most Pooling and Servicing Agreements creates major disincentives for more than minimal modifications of the mortgages in a loan pool. What lies behind all of these structural barriers and failed attempts is the refusal to acknowledge that the aggregate mortgage debt on a residence exceeds the fair market value of the property. When a property is "below water" every party with an interest in the property seeks to push the loss to other party and has no incentive to share in reallocating the losses and stabilizing the loan. When property values begin to decline it quickly becomes a spiral as parties push the losses to others.

The single most important lesson to learn is that loan modifications simply will not occur when the debt exceeds the value of the property. Single and multiple mortgagees must be given a reason to modify loan at current values, and the simplest and easiest method to accomplish this is by amending the Bankruptcy Code to grant authority

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[4] Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343.

[5] See, e.g., the Home Affordable Modification Program, http://www.makinghomeaffordable.gov/

to bankruptcy courts to reduce the level of mortgage debt to the value of the property.[6] At the present time bankruptcy courts can modify reduce the value of loans on commercial property, on cars, on boats, but not on residential properties. This differential treatment does not protect homeowners or increase home loans; instead it creates precisely the crisis we face today – of massive residential mortgage foreclosures and futile attempts to modify the loans to acceptable levels. The lesson to learn is that the residential mortgage carve-out in bankruptcy law contributes to the crisis rather than solves the problem.

2. Lack of Accurate Data. One of the most surprising lessons to learn from the current mortgage crisis is that we simply know very little about the mortgages with high rates of delinquency, default, and foreclosure. Virtually all of the data is based on the characteristics of the mortgage at the time there were created, not as they exist at the time the mortgage goes into default or foreclosure. For example, there is simply no data available anywhere on the percentage of mortgages in foreclosure that are owner-occupied, are tenant occupied, or are entirely unoccupied s of default and foreclosure. We really don't know – of the tens of thousands of condominiums in Miami or the ten thousand properties scheduled for foreclosure tomorrow Atlanta, how many are today providing shelter to owners and tenants or are vacant investment properties. Due to the variations in foreclosure procedures between the states, we also have very little accurate data on the number of foreclosure sales that actually occur, and whether these are foreclosures of senior mortgages or junior mortgages. It is quite difficult to design appropriate responses to a crisis when we have so little empirical knowledge about the foreclosures that are occurring. The lesson to lean is that Congress and federal banking regulators need to require submission of accurate data about occupancy and ownership of the mortgages in foreclosure *as of the time of foreclosure*.

3. Who is Foreclosing? The dramatic growth in the secondary mortgage market, both through the government sponsored enterprises and private label securitizations, has led a striking lack of accurate information on one of the most basic points: When a mortgage goes into foreclosure who has legal authority to enforce the mortgage? The Mortgage Electronic Registration System (MERS) was created over a decade ago by Fannie Mae, Freddie Mac and large private banks to facilitate secondary mortgage market transactions. Unfortunately, however, it was created largely without regard to state real property laws and the requirements applicable to mortgage transfers and foreclosures. The presence of MERS, together with the highly fractured nature of the secondary mortgage market, result in foreclosures being initiated by entities that lack the legal authority to foreclosure, by parties that have no knowledge of who owns the promissory note or where it is, and by parties that have no accurate records of payment histories. In state courts throughout the country and in federal bankruptcy courts in every

[6] At present a bankruptcy court lacks the authority to modify the basic terms of a residential mortgage. 11 U.S.C. §13322(b)(2).

judicial district, borrowers and judges can't get simple answers to this direct question of who has legal authority to foreclose? This lesson points to a straightforward solution of requiring – as a precondition to foreclosure proceedings – that the entity seeking to foreclose be able to demonstrate either ownership of the promissory note and the security instrument in a manner consistent with state law requirements, or full authority to act on behalf of the owner, also in a manner consistent with state law requirements.

4. Foreclosure Notices to Occupants. The majority of states in this country permit nonjudicial foreclosures which are accomplished primarily by publishing notice in a newspaper and selling the property at an auction. Though mortgage documents and state laws may require that notice be given to the debtor, actual notice of the default and pending foreclosure is rarely if ever given to the individuals and families who may live in the property as tenants. Last May Congress enacted the Protecting Tenants at Foreclosure Act of 2009,[7] in recognition of the harsh consequences of foreclosures upon tenants. What this federal act failed to do, and what most state laws fail to provide, is that notice of a pending foreclosure be given not just to the debtor under the mortgage but to all persons occupying the property as well.

The federal Protecting Tenants at Foreclosure Act is in many ways the most direct federal restructuring of mortgage foreclosure law in our history. It is the clearest example of Congress setting a national minimum standard for the protection of the rights of innocent parties who have no responsibility whatsoever for the financial transaction, yet who bear the brunt of the tragedy of foreclosure by eviction. While an important step to be taken, this federal act needs further clarification in the months and years to come. For example, clarification is needed of the form of notice to be given to tenants, the timing of commencement of the ninety-day period for the notice, and the terms and conditions of the lease that survive the foreclosure sale. In a manner that is a most positive and constructive example of the proper relationship between federal law and state law, this Act only sets a minimum floor on tenant protections and expressly permits states to apply greater or more extensive protections in the discretion of the state.[8]

II. Mitigating the Impact of the Foreclosure Crisis on Others

5. Neighborhood Stabilization. Congress has now provided almost $6 billion dollars in assistance to state and local governments for the acquisition of vacant foreclosed properties.[9] Though it may have made sense in light of the perceived

[7] Title VII of Helping Families Save Their Homes Act of 2009, Pub. L. 111-22 (701), 123 Stat. 1632 (701).

[8] Sec.702(a), Title VII, Title VII of Helping Families Save Their Homes Act of 2009, Pub. L. 111-22 (701), 123 Stat. 1632 (701).

[9] Of this amount, $3.92 billion was allocated through the Housing and Economic Recovery Act of 2008, and an additional $1.98 billion through the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5.

economic conditions at the time of its passage, the increased magnitude of the mortgage foreclosure crisis reveals that the statutory constraints on the use of these Neighborhood Stabilization Program funds is far too limited. For example, restricting the use of the funds to foreclosed properties only, and not properties that have been abandoned without foreclosure, severely constrains the flexibility of some jurisdictions to use the funds most effectively. The lesson to learn here is that the Secretary of Housing & Urban Development must be granted authority and discretion to modify the program requirements as most appropriate to meets the needs of a local jurisdiction.

6. Require HUD Properties to Comply with Local Laws. The inventory of properties owned by HUD has grown significantly as a result of the mortgage foreclosure crisis. As local governments seek to reduce the harmful effects of vacant and abandoned properties they are increasing their efforts at enforcement of their ordinances aimed at properties that fail to comply with minimum nuisance abatement and housing and building codes. The question that remains surprisingly open today is whether HUD will take action to ensure that its own inventory of foreclosed properties complies with these local laws. Thus far Congress has only expressly declared all property taxes must be paid on HUD properties,[10] and has delegated to the Secretary of HUD discretion on whether to comply with local property maintenance and property condition ordinances.[11] In its present form the HUD policy handbook provides only that field offices *may* undertake property repairs,[12] but it imposes no obligation to bring the properties into compliance with local laws. The lesson to learn is that if HUD is to pursue its stated goal of supporting community development,[13] it must be part of the solution rather than part of the problem, and this can be accomplished either by an exercise of the Secretary's delegated discretion, or by a congressional amendment to the National Housing Act. Al HUD properties should comply with local laws related to the conditions of the property.

7. Ownership of Foreclosed Properties. In strong real estate markets there are market incentives to record foreclosure deeds promptly after a foreclosure sale. In weak real estate markets the reverse is true and many jurisdictions lack any statutory requirement for the recording of foreclosure sale deeds, or deeds in lieu of foreclosure,

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[10] 12 U.S.C. § 1714.

[11] 12 U.S.C. § 1710(g).

[12] U.S. DEP'T OF HOUSING & URBAN DEV., 4310.5, PROP. DISPOSITION HANDBOOK – ONE TO FOUR FAMILY, ch. 10, sec. 3, pt 10-11.

[13] http://portal.hud.gov/portal/page/portal/HUD/about/mission (Full text of the mission statement: "HUD's mission is to increase homeownership, support community development and increase access to affordable housing free from discrimination. To fulfill this mission, HUD will embrace high standards of ethics, management and accountability and forge new partnerships--particularly with faith-based and community organizations--that leverage resources and improve HUD's ability to be effective on the community level.").

within any specific period of time. This has two negative consequences. The first is that there is no public record (at least in nonjudicial foreclosure states) of whether a foreclosure sale actually occurred, and we are now seeing increased instances of foreclosures that are commenced but not completed as a lender decides at the last minute that it is not in its interest to complete the foreclosure. The second is that when the sale does occur the lender that now holds the "REO" is able to avoid public scrutiny – and public liability – for the post-foreclosure conditions of the property. The lesson to learn is that involuntary transfers of property as a result of foreclosures must be filed in the local real property records immediately after the sale.

8. Foreclosure Assessments. Foreclosures impose costs not just on owners, tenants, and lenders, but also on neighbors, neighborhoods, and communities. The costs to the public at large, and to local governments in particular, are dramatic. Local government expenditures for police and fire protection and code enforcement activities increase sharply precisely when tax revenues decline. The lesson to learn is that our current system significantly understates the costs of foreclosures imposed on others. The simplest and most direct solution is to impose a specific dollar assessment on the filing of each and every foreclosure sale deed, payable to the local government as revenue dedicated to covering the costs it incurs.

9. Vacant Property Registration Ordinances. The significant cost of vacant and abandoned properties post-foreclosure is a challenge that most jurisdictions have not faced in our lifetimes. Neighborhoods and local governments need a mechanism which permits them to know immediately the owner, or at least the identity of the entity with management control, of the property. The lesson to learn is that in weak market conditions owners will neglect their responsibilities and impose the costs on the rest of the community. A state statute, or local ordinance, that requires notification to public officials of properties that remain vacant and unoccupied for more than short period of time will allow access to those who are responsible for the property, and opportunity to levy fines and assessments for harmful conditions.

10. Property Taxes. The untold story of the current mortgage foreclosure crisis is its relationship to property taxes, which are the largest single source of general revenues for most local governments. We are now learning that many residential mortgages were originated without a requirement for monthly escrows of property taxes, partially to qualify the borrowers at lower monthly payments, and as a result property tax delinquencies are rising. We are also learning that the failure to record promptly foreclosure deeds results in homestead exemptions remaining on properties when the property is no longer legally eligible for the exemption. Finally, we are realizing that most state property tax foreclosure laws remain grounded in 19th Century traditions and fail to comply with 20th Century constitutional requirements of due process. These lessons prompt the need for (i) mandatory escrows for real property taxes in all residential mortgages, (ii) notice to be given immediately following a foreclosure sale by

the foreclosing lender to local tax assessors of each completed foreclosures, and (iii) property tax foreclosure reform.

III. Avoiding Reoccurrence in the Future

11. Prohibit Inherently Dangerous Products. The backdrop of the current mortgage foreclosure crisis is a generation of a completely deregulated and unregulated market in residential mortgages. No other aspect of American life which is at the core of our daily lives is left so entirely to the vicissitudes of the market. It is now evident that, as in most every aspect of commerce, there are certain products that are inherently dangerous. Very few residential borrowers understand the ramifications of negative amortization, prepayment penalties, balloon payments, teaser rates of interest and the host of related exotic mortgage attributes. Very few residential borrowers can project debt coverage ratios or know when a mortgage is essentially asset based rather than income justified. The lesson to learn is that, at least as to a certain range of residential borrowers, only a small narrow range of standard mortgage products should be permitted. Teaser rates, negative amortization, prepayment penalties, and balloon payments should be simply and explicitly prohibited as a matter of law.

12. A Federal Minimum Floor. The chaos that fueled the mortgage boom at the close of the twentieth century, and the bust of the last two years, is directly attributable to the absence of any regulation at either the state or the federal levels. Every attempt by local governments, or state governments, to impose constraints was met with swift federal preemption. Unlike other forms of federal displacement of state laws, federal preemption in real estate finance has been displacement of state laws without the substitution of federal laws. It has been preemption by a "null set". In the move towards creating a more rationale and stable mortgage market in the future, the lesson to learn is that the proper role for the federal government is to enact federal minimum standards for residential mortgages, but allow states the discretion to establish standards above that floor. There should be no federal preemption of state laws above the minimum federal floor.

13. Reinvigorate Mortgage Insurance. One of the most puzzling features of the current mortgage crisis is the silence of the mortgage insurance industry. For eighty years mortgage insurance – whether in the form of FHA, VA, or private mortgage insurance – provided the necessary assurance to capital markets of stability and risk allocation. The relative silence in the secondary mortgage market liquidity crisis of the past year suggests perhaps that the industry as a whole elected to cease requiring mortgage insurance on individual mortgages, preferring instead to rely upon hopes that credit default swaps and implicit federal guarantees would cover the risk. The lesson to learn is what happened to the historical requirement of mortgage insurance on residential loans.

If mortgage insurance (presumptively private mortgage insurance) were required on all residential mortgages in which the aggregate debt to value ratio exceeds eighty percent (80%), and was made applicable to all of the mortgages (first and second) that comprised the aggregate debt, there would be a return to stability in risk allocation. There would also emerge a new role for the mortgage insurance industry in becoming the primary voice for rating of mortgage backed securities. No industry would know or understand delinquencies, default, and foreclosures better than the industry that calculates premiums and covers losses. The lesson to learn is that relying on credit rating industries that have no stake in the outcome is hardly preferable to industries that are required to cover the losses when they occur.

14. The Federal "Conforming" Mortgage. For sixty years the standard form "conforming" mortgage instruments of Fannie Mae and Freddie Mac provided the base line for residential mortgages and facilitated the emergence of both the public and private secondary mortgage markets. The current mortgage crisis reveals that departure from the relatively safe harbors of the conforming loan documents places at risk not just Fannie Mae and Freddie Mac, but the entire mortgage industry. Regardless of the ultimate outcome of the current conservatorship of Fannie Mae and Freddie Mac, the lesson to learn is the important role of conservatively drafted, tightly underwritten, standard form approaches to residential finance. The public agencies should not displace the private mortgage industry, but should instead return to purchase and securitization of a narrow range of conforming mortgages. An additional lesson to learn from this crisis is that even the conforming loan documents need further revision. The ability of homeowners and private lenders to repeatedly withdraw all equity from homes by home equity lines of credit cries out for the inclusion of a "Due-on-Encumbrance" clause in the standard form document which would prohibit, or at least limit, the withdrawal of home equity at ATM machines.

15. Anti-Deficiency Legislation. Markets behave irrationally when parties can impose costs on others or ignore the future consequences of present behaviors. A mortgage loan should be based on the income of the borrower and the value of the security. In most jurisdictions, however, it is also based on a belief that in the event of a default the lender can sue the borrower personally if the value of the property is not sufficient to cover the debt. One of the lessons learned from the Great Depression is that by enacting "anti-deficiency" legislation, lenders realized that their only recourse would be to foreclose on the property. This, in turn, placed far greater emphasis on a lender's accurate estimation of the value of the property, and its determination of a reasonable loan to value ratio. The lesson to learn from the current "Great Recession" is that we completely lost sight of the importance of accurate appraisals of home values. If more states adopted the approach, currently found in some states, of prohibiting deficiency actions in residential mortgage transactions, rational calculations of home value would return to the market place in mortgage originations. If anti-deficiency legislation widely existed today at the state level we would see a much higher percentage of loan

modifications occurring for troubled loans, as net present value calculations under Pooling and Servicing Agreement would be capped at real property valuations.

Conclusion

Every crisis presents both a need for an immediate response, but also the opportunity to learn. If we do not see in each and every crisis the opportunity to realize our mistakes and to prepare for the future, then we will have failed in our response. Over the past twenty years we failed to remember the lessons of our parents that we should not "bet the house", or "mortgage our future". We have now done both. Let us respond to the immediacy of this current crisis, but in a way in which we can identify and claim the lessons to learn from it both for ourselves and our future generations.

I deeply appreciate the work of this Domestic Policy Subcommittee, the time you are taking to conduct these hearings across the country, and the actions you have taken and will be taking on behalf of the entire county. I thank you also for the privilege and honor of appearing before this Subcommittee to share these thoughts.

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Mr. KUCINICH. Thank you, gentlemen.

We are going to go to questions of the witnesses. I am going to begin with my 5 minutes.

I am going to ask Mr. Brennan, Professor Alexander, Professor Immergluck and Senator Fort—we will start with Senator Fort. I am going to pose this question and I would like each of you to just give a try at giving me a brief answer.

I have heard variously from the witnesses that there is a fundamental breakdown in responsibility by lenders and investors; one, investors who choose to allow loan modifications in the numbers and agree are needed; two banks made loans and sold them so they did not take responsibility for the quality of the loans; three and once in foreclosure, the investors and lenders do not take responsibility for property once the borrowers are evicted.

Now all of the costs of this failure to take responsibility is being borne by the taxpayers in the form of the TARP bailout, increased cost on local communities in the form of vacant and abandoned houses, crime and so on.

So I want to ask each of you, what is the solution to this problem in your judgment? Mr. Fort.

Mr. FORT. As I said, this is an issue that strikes at the very core of straightening this mess out. There is some legislation in place here in the Georgia General Assembly on these issues and I have advocated in that legislation that there be assignee liability maintained. Without that, you know, what we have is a situation where people originate the loan, who make the loan, sell it off and they say it is not my problem, I did not do it, I just sold it, it is someone else's problem. And ultimately it becomes a lot of people's problem, including taxpayers.

So I would urge, as I reiterate, that issue of assignee liability, make it concrete.

Mr. KUCINICH. Thank you very much.

Mr. Brennan.

Mr. BRENNAN. Of course, I agree with Senator Fort completely. These abusive lending practices need to be made illegal and regulated, especially the practice of lending without regard to the borrower's ability to pay, which has just been devastating on all fronts of that securitization structure. So we need laws and regulations on the national level to prohibit these abuses and assign assignee liability to the ultimate holder of the mortgage and even the investors.

But on another front, quickly, to answer your question, day in and day out what we do for our clients is not what is being done by the Federal programs that have come along to help them. Every client we have has to have this result to stay in their home—lower the interest, lower the principal balance on the loan, make the payments affordable and fixed for people who can afford to make mortgage payments. And that is not what they are getting from the programs that are in effect now.

Mr. KUCINICH. I thank the gentleman.

Let us try Professor Immergluck.

Mr. IMMERGLUCK. I think short term/long term. Short term, there really has to be—to slow foreclosures, there has to be a much more aggressive Federal response still, and servicers need to be told that they have to modify loans if they are going to—and if not, penalties on TARP funds have to be applied somehow. I think there just has to be a hammer put down.

Long term, we need much sounder, non-bubble inducing mortgage markets and the CFPA, Federal regulation that provides a floor and then covers every single mortgage lender in the country is the way to do that.

Mr. KUCINICH. Thank you very much.

Mr. Alexander.

Mr. ALEXANDER. If you want to achieve large-scale modifications, you are going to need to have a bankruptcy cram down provision authorized. There will be no large scale residential modifications in the face of second mortgages and under the current PSA, pooling and servicing agreement structure, in the absence of a backdrop of a bankruptcy cram down.

With respect to the impact on—the devastating impact on neighborhoods, I think if you give Secretary Donovan the discretion to adjust the NSP allocation formula and use, you will achieve a much greater stabilization in the neighborhoods.

Mr. KUCINICH. Thank you very much.

I have a question of Ms. McCoy. From the example that you give in your written testimony, it seems there is no incentive for a lender to address a borrower who may need some kind of loan workout, but who is not yet delinquent on their loan. Is there any way for a borrower who is experiencing difficulty, but is not yet delinquent, to get help from their lender, in your estimation?

Ms. MCCOY. What we are finding is that it is more challenging. Usually the lenders, it seems as if they are dealing with the cases that are maybe headed to foreclosure, those are the ones they seem to be dealing with. But if a client comes in and they are paying the mortgage on time, however, they have exhausted their savings and, you know, they lost their job 3 months ago, but they have been living on savings or whatever the resources that they had, they are not getting adequate responses. And sometimes even being told that there is nothing they can do, but yet from the perspective that we understand, yes, there is something you can do. So again, we are getting different information from that front end line of people we are dealing with at the servicer versus what we know around Making Home Affordable.

Mr. KUCINICH. Thank you very much. In the half minute I have, I want to go back to Senator Fort. You raised the question in your testimony of possible civil rights action. In our own community in Cleveland, we saw where there is just no question that there was predatory lending going on in the African-American community at a rate that was extraordinary and there are vast areas that are now empty as a result.

Do you know of any activity that is going on right now with respect to litigation?

Mr. FORT. Well, I know that—here in Atlanta?

Mr. KUCINICH. Right.

Mr. FORT. No, no. The City Council here in Atlanta passed a resolution for the City to consult with attorneys to possibly do a suit, but no, it has not been done.

Mr. KUCINICH. Thank you very much, Mr. Fort.

The Chair recognizes the gentleman from Georgia. Mr. Westmoreland, you may proceed.

Mr. WESTMORELAND. Thank you, Mr. Chairman. I am just going to make some comments, do not really have any questions, but I would like to comment on a couple of things that the witnesses testified to.

Senator Fort and Mr. Manning both talked about the values decreasing. This is—and I agree with Mr. Brennan, I hate the word toxic asset because these were not really toxic assets, but they became toxic assets when this TARP money went out to some of the larger banks. And it goes back to Ms. McCoy's statement of getting the run-around. They have no—had they not had these funds to balance their books, I think they would have been more willing to work with these people to try to work out their loans. Getting something in return, some type of payment on this loan is better than going to foreclosure, because that snowballs the effect of these values going down. And it is just complete madness that we keep doing this.

We were told when the TARP bill came out—and this is the reason myself and Dennis and others really questioned this, Congressman Kucinich really questioned this, because we thought well, what kind of incentive does that give the banks to work with people. You give them $700 billion, what incentive does that give the guy that has a $1,400 a month house payment that his value is gone. We were promised by Secretary Paulson that there would be a floor put on these assets. That was not done. Immediately the next day, the direction of this money was changed. And from that we have had people suffer greatly with the loss of value. And I agree with you, it is not just wealth, it is a lot of different things that you suffer when you go through that through no fault of your own, but because your neighbor or somebody else made a fraudulent decision, like Mr. Brewer talked about, or a mortgage company did something.

And let me add to it, what Mr. Brewer spoke about has killed the appraisals in this area. There was a front page article in the AJC this morning talking about the very fact of the appraisals killing his ability to be able to restructure his loan.

So all of these things are working together and I just want to thank again my friend, Congressman Kucinich, for having this hearing, because I think it is going to bring a lot of things to light in a market where we I think have suffered maybe more than a lot of other cities. And I want to thank the gentleman for that.

Mr. KUCINICH. I thank Mr. Westmoreland for the role that he has played in making this hearing happen.

And now to our colleague, who has been an equal partner on matters relating to the security of his community. You may proceed.

Mr. SCOTT. Thank you so much, Mr. Chairman.

Let me start with you, Mr. Alexander, because you I think have really nailed the nail on the head in so many ways and points out why we do need to pause and get some sort of moratorium on all of this because of all of the questions, all of the issues that you brought up.

Let us start, for example, with the neighborhood stabilization program. I was very instrumental in getting that piece done. Here is the point. The point is the cat is already out of the bag on that. We have already put out $153 million right here into Georgia. Many people do not know that, but there is $153 million that is available in Georgia right now. It has been split equally pretty much, the State has $73–74 million, divided up into local and counties, I just announced and presented a check of $9.7 million into Clayton County last week. And for those that night not know, the neighborhood stabilization program is there to buy up this property that is bringing down neighborhoods that are abandoned and rehabbing those and reselling those. Very instrumental we thought in getting money turning around in the communities to stay in there. But you made a point that, you said you felt that was not effective or a suggestion, a recommendation that Mr. Donovan do something.

With it out of the bag, with the money already out, what do you say now?

Mr. ALEXANDER. I think, Congressman, that the NSP program is still an excellent program. It can be made more productive and effective if you give Secretary Donovan power or discretion to adjust the allocation—not the allocation amount, but the utilization formula. Specific example is, as you are aware, the NSP money can only be used to acquire foreclosed property, but not properties that have simply been abandoned. The NSP program requires it to be purchased on the average at about 95 percent of fair market value. Fair market value is tremendously difficult in some of our neighborhoods, in Pittsburgh or in Summerhill.

Finally, we are discovering that we cannot use the NSP money because we do not know the bank inventory. Because foreclosure deeds are not being filed, we do not know who really owns that inventory. We are actually using the NSP money to buy property from third-party speculators as quickly as we can.

Mr. SCOTT. What I would like for you to do is, if you do not mind, if you would get that to me in writing so that I can pass those on to the Secretary as we move forward, because that is already moving. And I think that would be an excellent, excellent contribution there.

Mr. ALEXANDER. Yes, sir.

Mr. SCOTT. Now let me go on to you, Mr. Immergluck, and a few others here on this issue.

As you know, we finally, finally were successful in getting some of the TARP money to go toward helping folks in their foreclosures. And it is called the Making Home Affordable Program. Anybody here familiar with that, the Making Home Affordable Program? That is good.

And I want to get your feedback on that. Essentially what we tried to do is we have $50 billion set aside out of the TARP money to go to help people get their loans modified and to get the principal and the monthly payments down to a level that would be less than, not more than, 31 percent of their monthly income. That is basically that program. Is that working? What do we need to do to adjust it?

Mr. IMMERGLUCK. Well, it is certainly better than previous attempts, but the first point I would say is Professor Alexander's comment about the lack of the bankruptcy cram down, which should have been put through—well, when Senator Durbin introduced it in early 2008, actually an earlier version in 2007, if that had been available all of the efforts would have worked better because it would have effectively dealt with the upside down mortgages.

Now what is happening, the banks are acquiring the property at foreclosure and then selling them for $30,000 anywhere. There is no rationality in that. They would have been better off with a bankruptcy cram down, that is clear.

The second thing is the fact that the servicers were never designed, the system was never designed to deal with 10,000 foreclosure filings a month in the metropolitan area. And no matter how many—you give them $1,000 here and $1,000 there, you know $1,000 on a million foreclosure filings is a billion dollars. That is chump change in the scheme of TARP. So the incentives that were built into MHA were not nearly strong enough. There had to be a stick and the stick—I am afraid I am going to put it a little bit back on Congress because Congress did not want to do the stick.

Mr. SCOTT. Right.

Mr. IMMERGLUCK. Which was the bankruptcy cram down.

Mr. SCOTT. Absolutely.

[Applause.]

Mr. SCOTT. I am glad to hear that because we wanted to get that in there.

Much of what we tried to do, we did not get it sufficiently, but at least we have those.

May I just ask for indulgence? I wanted to ask Ambassador Young a question. We do not have a banker up here just yet——

Mr. KUCINICH. We have a number on the next panel.

Mr. SCOTT. But I wanted to get Ambassador Young's point because he has been working with some banks and has some ideas. And I wanted to get your take on do you believe that the FDIC is doing an efficient job in this area?

Mr. KUCINICH. The gentleman's time has expired, but we will certainly permit him to ask Ambassador to respond.

Mr. SCOTT. I appreciate your indulgence because he will be gone after this.

Mr. YOUNG. I am not a banker and I am not a lobbyist for banks, but I do have a lot of respect for FDIC if they were given an additional flexibility. I think when they were structured in the wake of the savings and loan crisis, you had a line in the sand. I think that the FDIC is the only institution I know about that could work with banks, that do not have predatory lending. Rural banks are dealing with farmers and small businesses and I think they know the banks better than anybody else that I know about and with a little more discretion and time, I think a lot of these things could be worked out in Georgia.

I do not expect—I am an optimist. I do not expect this to be a 10-year crisis. I think we are working our way out of this gradually and if we do not make it worse by closing down businesses, closing down banks, closing down more houses for people who are struggling to make ends meet.

Mr. KUCINICH. I want to thank you, Ambassador; thank you, Mr. Scott.

Mr. SCOTT. Thank you for your indulgence.

Mr. KUCINICH. We have now concluded the work of the first panel. It has been extraordinary, your testimony has been excellent. Let us hear it for the members of the first panel.

[Applause.]

Mr. KUCINICH. We are going to take 5 minutes recess, and let me tell you it will be 5 minutes. And then we are going to start right away and I would ask the second panel to come forward.

We will recess for 5 minutes and we are going to move this along. Thank you.

[Recess.]

Mr. KUCINICH. Thank you very much for being here. We are going to resume the hearing. I am going to introduce the witnesses and then we will go to the witness statements. The witnesses are as follows:

Ms. Saqirah Redmond is a homeowner, who will share with us the challenges she faced in obtaining a loan modification from her mortgage lender.

Mr. Andrew Schneggenburger is the executive director of the Atlanta Housing Association of Neighborhood Based Developers, it is a coalition of Atlanta area community-based organizations advocating for, dedicated to improving the quality of life in under-served neighborhoods through the support of community economic development and affordable housing activities.

Mr. Joe Brannen is president and CEO of the Georgia Bankers Association which is the trade and professional association representing virtually all of Georgia's commercial banks and thrift institutions.

Mr. Jeff Betsill is president of Jeff Betsill Homes, Inc. Mr. Betsill's company operates with 10 full time employees and has built many of the homes and commercial buildings in the south metro area of Atlanta.

Mr. Michael Rossetti is the president of Ravin Homes, Inc., which has built thousands of homes and has completed numerous commercial development and commercial renovation projects throughout Peachtree City, Fayette County and the south side of Atlanta.

Finally, Mr. Jon D. Greenlee is the associate director of the Division of Banking Supervision and Regulation of the Board of Governors of the Federal Reserve. In this capacity, Mr. Greenlee is responsible for assessing current and emerging risks in the banking system and oversees the Federal Reserve system's supervision of credit market liquidity operational and compliance risks.

It is the policy of the Committee on Oversight and Government Reform to swear in all witnesses before they testify. I would ask that the witnesses stand and raise your right hands.

[Witnesses sworn.]

Mr. KUCINICH. Let the record reflect that each of the witnesses has answered in the affirmative.

As with panel one, I am going to ask that each witness give an oral summary of his or her testimony and keep the summary under 5 minutes in duration. Among other reasons, because Members of Congress have to catch a plane to get back for votes. But other than that——

Bear in mind your complete written statement will be included in the record of this hearing.

I am going to start with Ms. Redmond. We appreciate that you are here. Please proceed for 5 minutes. Go ahead, please.

STATEMENTS OF SAQIRAH REDMOND, HOMEOWNER; ANDREW SCHNEGGENBURGER, EXECUTIVE DIRECTOR, ATLANTA HOUSING ASSOCIATION OF NEIGHBORHOOD BASED DEVELOPERS; JOE BRANNEN, PRESIDENT AND CEO, GEORGIA BANKERS ASSOCIATION; JEFF BETSILL, PRESIDENT, JEFF BETSILL HOMES, INC.; MICHAEL ROSSETTI, PRESIDENT, RAVIN HOMES, INC.; AND JON D. GREENLEE, ASSOCIATE DIRECTOR, DIVISION OF BANKING SUPERVISION AND REGULATION, BOARD OF GOVERNORS OF THE FEDERAL RESERVE

STATEMENT OF SAQIRAH REDMOND

Ms. REDMOND. Chairman Kucinich and members of the committee, thank you for allowing me the opportunity to testify today. My name is Saqirah Redmond and I am here today to tell you about my struggle with a deceptive and misleading mortgage situation and an extremely difficult loan modification process.

Mr. KUCINICH. You could actually slow down a little bit. If it is not all in there, we will get it in the record, if you cannot get it in.

Ms. REDMOND. OK, I am sorry.

Mr. KUCINICH. No, no.

Ms. REDMOND. I have lived in Atlanta for about 18 years. I came here to attend Clark-Atlanta University, where I obtained my B.A. in accounting. I managed to go to college despite I was a ward of the court, and earned my Master's degree as well. After college, I bought my first house at 22, with a 30-year fixed interest loan. I owned it for 8 years, never missing a payment. I started a good career here, working for Turner Broadcasting and other jobs here in Atlanta. I married and started a family and we determined that we needed a larger home. That is when my saga began.

In 2002, my husband and I obtained a mortgage from Home Banc. The loan was a 3.7 interest only LIBOR loan that reset every 6 months. After a couple of years, we also took a home equity mortgage out in order to pay off some bills. In 2005, I decided to refinance my mortgage to a 30-year fixed because I was not used to the interest only loan going up every 6 months. In order to do that, I had a friend that was in the business doing loans and she worked with Diversified Mortgage. So I went to her and told her I needed a 30-year fixed mortgage and to consolidate the two loans, so I could make one payment. My husband and I both had great jobs and we had great credit at the time. Diversified indicated that there was no problem for me to get a 30-year fixed mortgage.

When it came to closing, it was postponed three to four times. I would take off of work and make arrangements for closing that would be canceled. I was getting very stressed and frustrated. When I finally got to the closing table, they told me my new lender was Saxon and I was supposed to have a 6.7 interest rate and they gave me a 7.3 interest rate. When I balked at the closing table, they told me, contact Saxon and they will change your loan for you. At the time, I went to Saxon and they told me there was nothing they could do, do not worry about it, you will be great, for 2 years.

At the time 2 years later, I began to realize—I started to get phone calls from Saxon telling me my loan was going up to $2,400 to $3,000. I said what are you talking about when I should have a 30-year fixed rate mortgage? She said no, you have a 2-year fixed. I said what is that? She said it is called 2/28. To me that number stuck out to me because that is my birthdate. I said I never knew anything about a 2/28. She also told me I made $9,000 a month. I said we do not do that as well. Then she also indicated I had a 7.3 LIBOR loan. I said LIBOR loan, I do not know anything about a LIBOR loan because I had that before and it does not make sense for me to go from 3.7 to 7.3 LIBOR loan. So I went on, there was nothing I could do until I filed a complaint against Diversified Mortgage with Georgia Department of Banking and Finance. I filed a complaint with them, they told me there was nothing I could do then, that my paperwork was correct that they filled out.

So with that said, I kept pushing. I had financial struggles, me and my husband at the time were having marital problems, financial problems and the stress of the mortgage was getting to us, but I kept pushing. Then finally Saxon told me that I can stop my foreclosure—my interest from going up if I decide to not make my payments on time. I was making my payments on time. They told me to stop for 2 months and I would get in the program. I did that. At that time, yes, it stopped, but however, that was not fixing the problem, that was just freezing my interest rate which I never thought I had an interest only.

For awhile after the interest rate froze, unfortunately I lost my job as of February 2008. I called the mortgage company to see was there anything that they can do and they told me yes, stop paying your mortgage again and we will put you in the modifying program. So I did what they told me, I stayed on the phone—I have records to show I was on the phone 2 to 3 hours at the mortgage company trying to get this situation situated.

During this period, my credit was destroyed because I was late on my mortgage and I lost my job and with that said, I lost paying bills. I could not even get a job in the accounting field because of all of information that was on my credit, telling me that I would be a detriment to the company thinking I would steal money because I was behind on my mortgage payment. I was getting sick from stress and my marriage was failing. I kept calling Saxon, they kept saying they did not have the appropriate documents that I faxed to them, there was nothing they could do. I even certified my packet to them, the VP. Georgia Banking and Finance gave me the information.

I contacted the non-profit counseling agency, Resources Center, RCC. That was when my problems got better. I heard about the non-profit organization, which it took me a long time to get to them, mind you. This information is not out there for people. When I contacted them, they told me that I would work with a counselor and he would advocate for me and send my paperwork to followup. Mr. Dowdy helped and I was able to get a trial modification from the Making Home Affordable program in August 2009. So I went from 2005 to just now getting my situation straightened out. I have made three payments through the trial modification and working to negotiate a permanent modification.

I thought by now I would be in a better employment situation in my field. Instead, I have been working in a day care field for the past year at much decreased pay. I got a job in the day care field due to the fact that I own a business providing summer camps and college tours for teenagers. I am caring for two children, I am divorced, and I have lost my car. But I am hopeful that eventually the economy will pick back up so I can get back into my career field.

Thank you for the opportunity to testify and I hope the comments will in some way help protect others from having to struggle with similar difficulties.

Mr. KUCINICH. My Lord, I have to tell you something, this is very powerful testimony and our subcommittee will be in touch with you because we are going to go deep into those people who led you down this path. We will leave no stone unturned in getting into your documents and bringing justice. This is really very gripping testimony. Thank you.

Ms. REDMOND. The State of Georgia was doing that.

Mr. KUCINICH. I am glad to hear that, we will give them some help.

Mr. SCOTT. Mr. Chairman, what was the name, Saxton or——

Mr. KUCINICH. We are going to get the details and you can be part of that, Mr. Scott.

The Chair recognizes Mr. Schneggenburger.

[The prepared statement of Ms. Redmond follows:]

Testimony
Ms. Saqirah Redmond
Client of Resources for Residents and Communities of Georgia

Submitted to the

Domestic Policy Subcommittee
Oversight and Government Reform Committee
Committee Room 450 of the Georgia State Capitol Building
206 Washington Street Southwest
Atlanta Georgia
Monday, November 2, 2009
11:30 a.m.

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

Chairman Kucinich and Members of the Committee, thank you for the opportunity to testify today. My name is Saqirah Redmond, and I am here today to tell you about my struggle with a deceptive and misleading mortgage situation and an extremely difficult loan modification process.

I have lived in Atlanta for about 18 years. I came here originally to attend Clark Atlanta Univerity, where I studied to become a CPA. I managed to go to college, despite being a ward of the court, raised as an orphan, and even eventually obtained my Master's degree. After college, I bought my first house at the age of 22 with a 30 year, fixed interest loan. I owned it for 8 years, never missing a payment. I started a good career here, working for Turner Broadcasting and serving as the HR manager for a travel company. I married and started a family, and we determined that we needed a larger home. That is when my saga began.

In 2002, my husband and I obtained a mortgage from Home Banc. The loan was a 3.7% interest only LIBOR loan that reset every 6 months. After a couple of years, we also took out a home equity loan with a Mortgage Company in order to pay off some bills. In 2005, we decided to refinance to obtain a 30 year fixed interest loan, in order not to have to deal with the unpredictability of an interest rate reset every 6 months. At this time, our payments were around 1,400 a month. I knew a friend in the mortgage business with Diversified Mortgage, so I went to her and she told me she could get us into a 30 year, fixed interest loan and consolidate the two mortgages. My husband and I both had good jobs and excellent credit. Diversified Mortgage indicated that it was no problem for us to get the 30 year, fixed interest loan.

When it came time to close, the closing was postponed 3 or 4 times. I would take off work and make arrangements for the closing, then it would be canceled. I was getting very stressed out and frustrated. When we finally got to the closing table, the documents indicated that a company named Saxon was the lender, and what was supposed to be a 6.7% interest rate was now a 7.3% interest rate. When I balked at the closing table, I was told that this was the deal from Saxon and if I wanted to get the interest rate changed I would have to call them after the closing to get it adjusted. At this point, having had the closing postponed several times and with my 3 year old running around the room, I just thought I had better go ahead and sign the papers. I was worried about not being able to afford the current interest rate adjustments. After the closing, I called Saxon regarding obtaining the originally agreed upon 6.7% rate, but they said they could not change the rate.

Two years later in 2005, I began to get calls from the servicer saying that our payments were going up. I said, "What are you talking about? I have a fixed interest rate loan." They told me no, reread your documents, you have a 2 year fixed rate, 28 year adjustable mortgage. At the time, our payment was $2,400 a month. On the phone, the servicer said to us, the adjustment shouldn't be a problem for you, the records say you make $9,000 a month. I said that wasn't true and shouldn't be in the records. I also found out that it was a LIBOR loan and 7.3% was the interest only rate. This did not make sense to me. I filed a complaint on Saxon and Diversified Mortgage with Georgia's Department of Banking and Finance, explaining that I was not aware that I had a 2/28 loan, that it was supposed to be a 30 year fixed rate loan. The Georgia Department of Banking and Finance examined my loan and said there was nothing that they could do because the paperwork was all correct. I checked with other mortgage companies to get their perspectives on my situation, and they all said the paperwork was sound, and I had no recourse.

I kept pushing and researching, because my financial situation was getting very difficult. At this point, my husband and I were responsible for 4 children, two of our own, and two of his that we were paying child support for. The escalation in the mortgage and the expense burden of the family put pressure on our marriage. We begin to miss bill payments and our credit started to fail. We decided to file for bankruptcy, but I kept researching what to do about the mortgage. In June of 2007, I found out that Saxon had a loan modification program if we let our mortgage get two months behind, they would freeze the interest rate. I had never missed a payment on a mortgage for 13 years. It was tough for me to do, but I let it fall two months behind and I was on the phone every day with the bank trying to get the loan modification. It was obvious that the staff at the bank were overwhelmed. I worked with them from June of 2007 to October of 2007 to get the interest rate freeze completed. Our home was officially in foreclosure the whole time, which was very stressful.

For a while after the interest rate freeze, I was able to keep up with the payments, then I lost my job in February of 2008. I called the mortgage company, and I was told that I needed to stop making mortgage payments so that I could get a loan modification. I went back to the Georgia Department of Banking and Finance and found out that the company that had brokered my loan, Diversified Mortgage, was being sued for operating in Georgia without a license. I contacted Saxon again, and told them that they had given me a loan through a illegal situation with Diversified Mortgage, so they needed to help me. I stopped making mortgage payments as they had told me to do.

During this period, my credit was destroyed, and I was not able to find a job in my field with bad credit. I was getting sick from the stress, and my marriage was failing. I kept calling Saxon, and they kept saying they did not have the appropriate documentation from me, despite the fact that I had send a certified packet. I contacted the non-profit counseling agency, Resources for

Residents and Communities during this period when I heard about non-profits being able to help with foreclosures. This was the best thing I could have done. I worked with their counselor, Mr. Wayne Dowdy, he told me that RRC would advocate for me and send in the paperwork and follow up. With Mr. Dowdy's help, I was able to get a trial modification from the Making Home Affordable program in August of 2009. I am making 3 payments through the trial modification, and then working to negotiate a permanent modification.

I thought that by now I would be in a better employment situation in my field. Instead, I have been working in the day care field for the past year, at much decreased pay. I got a job in the day care field due to the fact that I had also operated my own business over the years providing summer camps and college tours for teenagers. I am caring for my two children, I am divorced, and I have lost my car. But I am hopeful that I will be able to get a permanent modification and keep my home, and that eventually I will be able to turn around my employment situation.

Thank you for the opportunity to testify. I hope that my comments will in some way help protect others from having to struggle with similar difficulties.

STATEMENT OF ANDREW SCHNEGGENBURGER

Mr. SCHNEGGENBURGER. Good afternoon, Chairman Kucinich, Representative Westmoreland and Representative Scott, thank you again for the opportunity to tell our story. Us being the Atlanta Housing Association of Neighborhood-based Developers. We are the association of non-profit community development corporations and non-profit affordable housing developers working in and around Atlanta. Our organizations, like RRC, who is a member of ours, are the organizations that are on the ground, on the front lines, working on all fronts to try and restabilize communities, restabilize homes, restabilize people's lives in the face of this current crisis.

Our members develop typically two types of housing, single-family housing mostly in the inner-city neighborhoods, which I say our organizations work in the neighborhoods primarily around the southside of Atlanta, the first ring neighborhoods just outside of downtown. I would like to add actually from some of the testimony in the first session, when you look at a map of the highest rates of foreclosures overlaid over a map of the majority minority neighborhoods in Atlanta, they are virtually the same map, an indication of some of the lending practices that were hinted at, talked about in the first session.

Our organizations, again they develop two types of housing, the single-family housing in those single family neighborhoods, and then also multi-family housing for rent, both in Atlanta and outside the city.

The financial crisis is having a severe impact on our member organizations' ability to develop housing, to develop affordable housing. Primarily, for single-family projects, the lack of financing for construction. Some of our members have been told flat out that banks will not be lending for construction until the market turns around, and there is no indication of what that means to anybody at this point. So as a result, development, construction has basically ground to a halt. And this is a huge problem for a number of our members because they rely on developers' fees to support operations of their organizations, to support other programs, some of the other social outreach programs, the homeowners' counseling, for example. So that lack of revenue is having a huge impact on many of our organizations' viability and the ability to keep doors open and keep programs operating.

As far as the multi-family housing, most of that is developed using the Low Income Housing Tax Credit Program, the Federal tax credit program to develop affordable housing. This program is basically run by private investment where investors buy tax credits to offset their tax liabilities and those investments go directly toward the development costs for the housing. As a result, much lower income target levels can be reached for occupants for these rental homes. These projects are being impacted in two ways, also by the fact that lending for these projects, construction lending, is really very difficult to get with reasonable terms; and second because the tax credit program has been rendered basically useless by current conditions. With so many companies and so many investors posting losses, there is a much reduced need to offset their tax liability and so terms to purchase those tax credits are very, very unfavorable for being able to put these deals together.

So this very important program, which takes care of a significant percentage of the amount of financing for affordable housing, rental affordable housing across the country, is really not working at all right now.

A third thing I would like to add real quick is there has also been an impact on small business lending. One of our members is a micro-lending organization, they do micro loans to startup businesses, specifically targeting disadvantaged entrepreneurs in disadvantaged neighborhoods who are trying to startup. They do loans ranging between $500 to $15,000. They have seen in the last couple of months, while it has been very good for them, they have seen an uptick of about 40 percent in their weekly orientation sessions. In addition, they have seen average credit scores for people coming to those orientations rise from the low 500's to the low 600's, and that is an indication that these people who would normally be eligible for a more standard business loan product are having trouble getting them, so they are coming to the micro fund to try and see if they can get some of those products.

Mr. KUCINICH. I thank the gentleman.

The Chair recognizes Mr. Brannen, and you may proceed for 5 minutes.

[The prepared statement of Mr. Schneggenburger follows:]

Atlanta Housing Association of Neighborhood-Based Developers

Revitalizing Our Neighborhoods

Testimony submitted by:
Andy Schneggenburger
Executive Director, Atlanta Housing Association of Neighborhood-based Developers

Testimony submitted to:
Chairman Rep. Dennis J. Kucinich
Ranking Member Rep. Jim Jordan

Domestic Policy Subcommittee
Oversight and Government Reform Committee

Committee Room 450 of the Georgia State Capitol Building
206 Washington Street Southwest
Atlanta Georgia

Monday, November 2, 2009
11:30 a.m.

Honorable Committee Members,

Thank you for the opportunity to share experiences of the Atlanta non-profit affordable housing development sector during this real estate financial crisis. The Atlanta Housing Association of Neighborhood-based Developers (AHAND) is the association of 16 non-profit community development corporations (CDCs) and non-profit affordable housing developers working to revitalize neighborhoods in and around Atlanta. We also have 12 additional affiliate members supporting the work of these organizations. AHAND works to provide collaborative programs that strengthen and support the community development activities of our member organizations, including capacity-building, policy research and education, and our monthly membership meetings and annual Affordable Housing Conference. We are also a member of the National Alliance of Community Economic Development Associations (NACEDA), which works in Washington to support CDCs and their associations across the country.

In response to your invitation to testify, I have gathered information from a number of our member organizations, detailing their direct experiences during this financial crisis and the impact it has had upon their community revitalization work. It is my hope that this information provides insight for Committee members into the current availability of financing products from lending institutions for both affordable housing development and small businesses. It also calls attention to other detrimental 'ripple-effect' impacts of the foreclosure crisis currently

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hampering local recovery efforts. For clarity in this testimony, 'affordable' refers to homes that are sold to qualified households earning no more than 80% of the area median income (adjusted for a family of two is $45,900 in Fulton County, 2009), and homes that are rented to households typically earning 60% of the area median income (adjusted for a family of two is $34,443 in Fulton County, 2009) or below, in accord with federal policies.

It is also important to acknowledge the context within which our member organizations now work. Due to fraudulent, predatory, and unwise lending practices, the neighborhoods in which most of our members work are ravaged by foreclosures. These primarily African-American, low and moderate-income neighborhoods have sustained hundreds of foreclosures each month for a few years now. The Pittsburgh neighborhood south of downtown for example, has a home vacancy rate of over 50%. Fulton County (the majority of which is City of Atlanta) regularly sees over a thousand foreclosures per month. As of mid-September there were 87,679 foreclosure notices in the Metro Atlanta area, already surpassing last year's record number of 79,484. The GA Dept. of Labor reported that the jobless rate in Metro Atlanta rose to 10.5% in September. According to the Atlanta Business Chronicle, 28,000 Atlanta construction jobs have been lost in the last 12 months. Please see the attached Atlanta Business Chronicle articles for more detail.

Currently, our members generally develop two types of affordable housing: single-family homes for ownership, and multi-family homes for rent. Single-family homes developed for ownership typically use conventional financing for acquisition and/or construction, paired with federal funds such as the HOME program to subsidize affordability targets. Multi-family homes developed for rent almost always utilize the Low Income Housing Tax Credit (LIHC) program, as well as multiple other financing sources to create a viable development deal. LIHC is by far the most valuable resource for affordable rental housing development because of its role as a significant source of funding for development costs, and its widespread successful use. Despite this value, multi-family affordable housing developments targeting low-income families are very complex to finance in part because of low revenue generated by rental income, with extremely thin margins.

For organizations developing affordable single-family homes, financing for construction has simply been unavailable. One member having a lending relationship with a bank was informed by that bank that they would not finance construction 'until the market turned around'. Another organization which had secured financing to purchase a property for an affordable housing development and had completed the acquisition now faces foreclosure on that property because they cannot secure construction financing to complete the development. Payment of carrying costs and debt coverage on the property were dependent upon timely completion of construction and sale of the units. In a third example, an organization purchased a 20-unit partially-completed subdivision as a foreclosure-recovery project in 2008. Six homes had been completed and were in need of minor refurbishment. One unit had been partially completed, and the remaining 13 lots were still vacant. Unable to secure construction financing even for the minor refurbishments on the first six homes, the organization completed the work using in-house resources, and sold them all quickly, thus demonstrating that there is a market even now for homes at affordable price-points. Despite the sale of those homes, they have been unable to secure financing to complete the construction of the seventh home, or to begin construction on the remaining 13. Other organizations have said that they are not even trying to secure financing for developments now because they know it will not be forthcoming. These are clear examples of a very timid lending environment that is preventing economic development activity even as lenders themselves look for signs of improvement. Banks, particularly TARP recipients, must be encouraged to lend with reasonable terms.

On a separate note, while the six homes in the aforementioned subdivision were sold, the final appraisal for each came back lower than the purchase price, forcing the organization to lose money on each sale, even though the foreclosed subdivision had been purchased at a discount to begin with. Another member has received an unusually low final appraisal on one completed home that used only foreclosed properties as comparables, not any of the eligible normal-market transactions that have occurred in the area. This also resulted in the loss of money by the organization upon sale of the home. Each loss of revenue hampers our CDCs' capacity to deliver services because they must rely on revenue from development fees to support operations. While a recently-passed Georgia law requires that foreclosures be taken into account in the appraisal process to ensure a fair tax assessment for existing homeowners, these seem to be examples of over-compensation by appraisers, who now are also less likely to be familiar with neighborhood markets due to new federal arms-length transaction requirements. As demonstrated, property assessments are variables that have far-reaching implications for redevelopment activity, and reasonable fair assessment practices are critical to setting the tone for economic recovery in the housing sector.

Current financial conditions are heavily impacting the use of the LIHC program. As mentioned before, tax credits are the single most important source of rental affordable housing development financing, responsible for the development of over 6,000 affordable rental units each year in Georgia. They work as a dollar for dollar reduction in federal income tax liability. Affordable housing developers that are awarded housing credits partner with an equity investor who purchases the credits to reduce tax liability. The capital or equity received from the sale of these credits reduces the amount of debt or loans needed to cover the costs to construct affordable housing. As a result, rents can reach more affordable levels since less income is required to operate the development.

However, this program relies upon a healthy competitive economy for success, and the financial crisis has rendered the program ineffective. The value of the credits has dropped significantly in the market, effectively dismissing the incentive most responsible for the program's success. Freddie Mac and Fannie Mae, both major tax credit investors in the recent past have stopped purchasing tax credits. The pool of interested investors has shrunk due to a reduced need for tax shelter because of reduced corporate profits during the economic downturn. Less demand means investors that are at the table are demanding higher yields, resulting in lower equity pricing and much more stringent underwriting. These conditions put greater pressure on operating budgets for the developments, creating additional funding gaps that are derailing these projects. Investors have also cooled specifically on rural LIHC developments because of reservations over market conditions in those areas. To help revive the LIHC program, I offer three suggestions for policy reform:

1. Extend the Housing Credit Exchange Program initiated in ARRA for one more year. This will provide direct access to development capital normally provided through the investment in tax credits.
2. Increase the investors' Housing Credit Carry-back period for up to five years with two provisions – that the entire amount carried back on existing housing will be immediately reinvested in new LIHC projects; and that future credits for new housing may be carried back for up to five years throughout the ten year credit period.
3. Diversify and expand the tax credit investor pool particularly for rural areas by allowing LLC's, S-Corps and closely held corporations to invest through the LIHC program.

Similar to the impact on single-family affordable developments, conservative lending practices are also playing a role in hampering LIHC projects. With few lenders willing to extend capital, those actually doing business are extending unfavorable terms. One member was required to rework their pro forma three different times trying to close on one project because the lender repeatedly changed the underwriting requirements. It became clear that there was no intent to actually lend, and the deal eventually fell through. One lender would not even agree to finance a deal that included income from a project based rental assistance (Section 8) agreement. Despite a contract from the local housing authority to guarantee that income each month, as well as LIHC investment, the lender would not underwrite. Another lender required higher operating expenses in a development pro forma, presumably to provide a greater level of insurance against debt service coverage. Despite having an extensive track record of operating very efficiently at a debt service coverage ratio of 1.15 (acceptable per the state housing finance agency), this organization was forced to try and work with a required debt service coverage ratio of 1.2 to 1.3. The resulting funding gap created by the need to raise minimum operating expenses killed the project. The requirement for carrying higher operating expenses runs counter to the need for efficiency in operation of any affordable housing development. Again, it is clear that the current lending environment is so conservative that it is actually preventing development and recovery efforts from moving forward. I will refer you to the attached Affordable Rental Housing A.C.T.I.O.N. Georgia Facts Sheet for more detail on the broader economic impact of this situation. TARP recipients and other banks must be encouraged to lend, and must play a part in breathing life into development activity.

There is also evidence from our partner micro-lending agency, the Atlanta Micro Fund (AMF), that lending practices for small businesses have tightened up as well. The AMF is a micro-lending Community Development Finance Institution, providing business coaching and small loans ($500-$15,000) to start-up businesses in targeted revitalization areas. They have seen a 40% increase in attendance at their weekly orientations since last summer, as well as an increase in the average credit scores of attendees from the low 500s last summer to the low 600s this year. While a boost for the AMF, this trend indicates that individuals with credit scores in the 600s, which normally have access to larger conventional business loans, are no longer able to secure those products. Indeed, one entrepreneur in good standing reported having his business line of credit suddenly closed, despite a history of full and timely payments.

In conclusion, I would like to reiterate that banks, particularly remaining TARP-recipients, must be encouraged to lend with reasonable terms again. That access to financing is critical to the affordable housing development industry, particularly at a time when the need for affordable rental units is rising. Given its role as a primary generator of affordable rental homes, the LIHC program must also be revived (per the three proposals above). Based upon the significant contribution that housing development has on the job and product markets in Atlanta, it is also critical to economic recovery in Georgia. Without it development will continue to stagnate, only increasing the negative impacts of rampant foreclosures on neighborhoods and communities. The NSP has begun showing signs of success creating and maintaining work in Georgia, but it will not itself lead to successful recovery without other sources of financing for parallel foreclosure- and economic-recovery initiatives. To maximize the results of our efforts, these other resources must be brought to full bear.

Sincerely,

A. Schneggenburger

Andy Schneggenburger

Executive Director
Atlanta Housing Association of Neighborhood-based Developers

Attachments:
'Georgia gets a 'D' for housing, home ownership', Atlanta Business Chronicle, Sept. 22, 2009
'Atlanta's commercial builders go into survival mode', Atlanta Bus. Chronicle, Oct. 30, 2009
ACTION proposed LIHC revisions
ACTION LIHC Georgia fact sheet 10-09

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STATEMENT OF JOE BRANNEN

Mr. BRANNEN. Thank you, Chairman Kucinich, for inviting us to testify today. Let me also thank Congressman Westmoreland and Congressman Scott, two of our good representatives that are representing the very difficult areas of our State, most hardest hit in Georgia. Thank you for letting us explain the ongoing effects of this difficult economy on our members, our customers and our communities.

Georgia Bankers Association has 322 members, the vast majority of them are community banks, community-based lenders and I want to spend most of my time today talking about how they and their customers are affected.

We are grateful for the role this hearing can play to help you advocate for policies that will remove obstacles that are making it difficult for our members to even serve their communities. Twenty-five Georgia banks have closed since 2008, out of 352 active banks at the beginning of that year. Those numbers are just the facts. The real question is why have there been so many? The answer is simple, the banks were closed because their customers could not pay back their loans and private capital was not available to support the losses.

It is important to keep in mind that Georgia's banks were lending to support the small businesses that were building supply and selling homes for a rapidly growing State, the sixth fastest growing State in the country. Metro Atlanta region's growth averaged 120,000 new residents every year for a decade. All credible evidence showed that growth continuing for some time.

The real estate market collapsed last year when mortgages of all types became more difficult for homeowners to get, secondary mortgage markets evaporated and our State unemployment numbers skyrocketed. These broad economic factors, a concentration of residential construction lending, borrowers unable to meet their obligations and private capital sitting on the sidelines caused these banks to close.

These closures have been community banks supporting high growth suburban areas as well as urban neighborhoods. One of our early closures was a bank that focused solely on refinancing the rehabilitation of homes in blighted inner-city neighborhoods.

While the business model of our banks, some of our banks, and their customers can be questioned, we also believe that aggressive interpretation of aggressive regulatory policies and accounting rules have contributed to those closures. Unless the application of these policies is modified, we see continued stress among borrowers and the bankers that finance them.

The economy and regulatory policies have put banks between a rock and a hard place when it comes to lending. Most of Georgia's banks are small businesses like the small businesses they serve. Most employ fewer than 50 people. Banks are in the business of making loans to credit-worthy borrowers, that is how they serve their communities, that is how they make money. In fact, Georgia banks have over $211 billion of loans outstanding today. Loan demand is down as more people are saving to pay off debt and companies have put off expansions or additions to inventory. But we also know that credit is not as easily available as it was in the recent past.

Traditional banks, those that we represent, are expected to be prudent lenders. You can certainly understand their caution when they see their non-performing loans at historically high levels, no significant sign that the rising loan delinquencies is subsiding and personal and business bankruptcies being at abnormally high levels.

Also, our banks are struggling to maintain adequate regulatory capital levels because of ongoing and rising numbers of troubled loans. To keep capital at the required levels, banks often cannot deploy that capital to provide more credit as they have to account for that credit with future and current losses.

Please understand, we are not suggesting that our regulators stop doing their job. They are good people trying as best they can but some of the regulatory orders, a third of our banks are under a regulatory order, which is in itself restricting lending. We are not asking them to quit doing their job, but the enforcement tools they have to use are not appropriate for this environment.

If we could identify one issue that is perhaps the biggest obstacle for recovery in the real estate market, it is the continued and artificial losses in real estate values. Banks and their customers are being forced to use real capital to account for theoretical losses. Commonly referred to as mark to market, but more accurately called the fair value of real estate, the aggressive application of this accounting rule is sapping capital that we could use to support more lending.

Another issue relates to real estate appraisals. You heard about that in the previous panel. In a non-functioning market like we have today, getting a meaningful appraisal is practically impossible. We ask our regulators to work with us, to be more understanding and not require our borrowers to produce more capital and pay down their loans just because the underlying real estate values have fallen.

I mentioned that private capital was scarce with community banks. We ask that you consider pushing Treasury to open the Troubled Asset Relief Program for more community banks and we ask your help with our regulators to quit forcing us to shed brokered deposits out of troubled banks and postpone the national rate cap rule scheduled to go in effect in January. We need those deposits, we need to be able to lend in our communities and we need your help.

Our highly regulated banking industry is the key for our State's growth and the success of our State. There is work to be done and we look forward to working with you for those solutions.

Mr. KUCINICH. Thank you very much, Mr. Brannen.

The Chair recognizes Mr. Betsill. You may proceed for 5 minutes.

[The prepared statement of Mr. Brannen follows:]

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GEORGIA BANKERS ASSOCIATION

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Joe Brannen
President and CEO, Georgia Bankers Association

Testimony to the Domestic Policy Subcommittee
of the
U.S. House Oversight and Government Reform Committee

Monday, Nov. 2, 2009
Atlanta Georgia

Good afternoon. My name is Joe Brannen and I am the president and CEO of the Georgia Bankers Association.

I want to thank Chairman Kucinich for scheduling this hearing in Atlanta and for inviting us to testify. We appreciate your interest in better understanding our industry and the ongoing effects of the difficult economy on our members, their customers and our communities. I'd also like to recognize and thank the other committee member, Congressman Lynn Westmoreland for his ongoing commitment to serving his constituents including many of our members in some of the hardest hit areas of our state.

The Georgia Bankers Association is comprised of 322 banks and thrifts that do business in Georgia. The vast majority of our members are smaller community banks and I want to spend most of my time today talking about how they and their customers are affected in the current economy and regulatory environment. Based on that membership and the insight they provide us about our industry, I'm going to briefly cover three areas that you've asked us to address.

First, I'll cover Georgia bank closures and our views of the reasons for those closures. Second, I'll address the factors our members are dealing with that affect credit availability for their customers. And, I'll conclude with some general ideas about how customers, bankers, regulators and policymakers can work in partnership for a stronger economic recovery.

Georgia Bank Closures

Perhaps the most visible consequence of the severe economic downturn nationally and in Georgia has been an increase in bank closures in Georgia. As of Oct. 29, 2009, 25 Georgia banks have been closed since 2008 out of 352 active banks at the beginning of that year. This is an unprecedented number for our state.

However, to put that in perspective, other states such as Nevada and Oregon have experienced a higher percentage of their banks closing than Georgia. And, the total assets of banks closed in each of five other states – Nevada, California, Alabama, Texas and Florida – exceed the total assets of banks closed in Georgia.[1]

The question you and many others ask is why have there been so many bank closures in Georgia?

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[1] See attached information compiled and supplied by the Georgia Department of Banking and Finance.

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Bank performance mirrors the economy and conditions in the local communities they support. We are all painfully aware of how difficult the economy is nationally and especially here in Georgia. The detailed causes of each closure vary by bank, but in general the root cause of Georgia's high number of bank closures is the rapid, severe and prolonged trouble in the residential real estate market throughout Georgia.

Simply put, the banks were closed because their customers had trouble paying back their loans and private capital was not available to support the losses. And we recognize that few if any of those customers defaulted on their loans out of choice but rather because of unanticipated circumstances of their lives, the pressures of the economy, and the oftentimes artificial devaluation of real estate.

Keep in mind that these banks, and others throughout the state, were lending to support these small businesses that were building homes to meet the demand of a rapidly growing state. For example, it is estimated that the metro-Atlanta region alone averaged about 120,000 new residents a year – 10,000 a month – for the decade prior to 2008. All credible estimates leading up to last year showed that growth continuing for some time.

So, operating on well-defined, long-term historical data as well as reasonable estimates about future demand, builders, and the bankers that supported them through lending, continued to work toward meeting the housing demand of a growing population. Many of these banks and their residential construction customers were in areas of our state where first-time home buyers were the predominant market participants. Affordable houses were being built and because of readily available mortgages, the dream of homeownership became a reality.

However, our growth trend stopped on a dime last year as the economy seized and fewer than 25,000 people moved to the metro Atlanta area. Throughout 2008, housing sales and demand softened and then virtually came to halt in the summer and fall as mortgages of all types became much more difficult for homebuyers to get, the secondary mortgage markets evaporated, and our state unemployment numbers skyrocketed. The general lending and development cycle for new housing is between 18 months and two years, so there were many hundreds of projects underway when these markets stopped functioning.

These broad economic factors, the concentration of residential construction lending, borrowers unable to meet their obligations, and private capital sitting on the sidelines caused these banks to close.

These closures have been community banks supporting high-growth suburban areas as well as urban neighborhoods. One of our early closures was a bank that focused solely on financing the rehabilitation of homes in blighted inner-city neighborhoods. That business model became unsustainable for the same economic reasons that affected all other banks heavily invested in supporting residential real estate.

While the business models of some of our banks and their customers can be questioned, we also believe that aggressive interpretation of certain regulatory policies and accounting rules has contributed to the closures. Unless these policies are modified, we will see continued stress among borrowers and the bankers that finance them. We have some recommended solutions toward the end of our statement.

You also asked us to address commercial real estate other than residential. While we are seeing growing signs of stress in that market, it is simply too early to make any reasonable predictions on how difficult that segment of the market will become. Clearly those commercial projects that were being built to support the growth of residential housing have been more immediately affected by the crisis. However, because many of these commercial projects have ongoing sources of revenue such as rents to support their loans, we are hopeful that the economy's effect on this sector will be less dramatic.

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While the Georgia Bankers Association does not and will not make predictions about whether there may be more bank closures in Georgia, clearly the economic environment remains difficult. We believe that the economy, coupled with certain government and regulatory policy actions I'll discuss more in a few minutes will continue to cause financial stress on a number of banks in Georgia.

That is the summary version of the climate and causes of bank closures in Georgia.

Credit Availability

I'll turn now to the issue of credit availability for small businesses and how the economy continues to affect our members' ability to provide funding for growth in their communities.

I'll start with a reminder that most of Georgia's banks are small businesses, too. Most employ fewer than 50 people, and those employees live, work and raise their families in Georgia cities and towns. So, the people that open the doors every day at our member institutions have a personal, vested interest in the success and growth of businesses in their hometowns.

Banks are in the business of making loans to creditworthy borrowers. That's how they serve our communities, make profits and provide value for our shareholders. I hope to demonstrate to you today how the economic and regulatory environments have banks between a rock and a hard place when it comes to making more credit available to small businesses.

Here's what the most current statistics say about loans in Georgia. Despite some headlines to the contrary, banks are attempting to make loans to borrowers with good credit, low levels of debt and verifiable sources of income and repayment ability. Based on the most current consolidated information from the FDIC through the end of the second quarter, Georgia banks had over $211 billion in total loans and leases. That is down, but only slightly from year-end 2008, by about 1.7 percent.

One reason for that decline is that loan demand is down as more people are saving more to pay off debt and companies have put off expansions or additions to inventories.

However, as I mentioned, banks only do as well as do the communities they serve. So, because of the continued economic weakness, we know that credit is not as easily available as it was in the recent past. There are several reasons why.

Banks are carefully balancing the need to lend more and avoid making more loans that might not be paid back because of the economy. In a recent national survey of lenders, more than 70 percent cited the poor economy as the number-one reason for conservative underwriting. What are they basing that caution on?

First there's the more than 10 percent Georgia unemployment rate and the nearly 10 percent national unemployment rate. Business bankruptcies and loan delinquencies also continue to rise.

According to recent statistics from the American Bankers Association[2], nationally, business bankruptcies have risen from 28,000 in 2007 to more than 43,000 at the end of 2008. Those trends have continued into this year with 30,000

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[2] Sept. 23, 2009, testimony of Austin L. Roberts, III On Behalf of the American Bankers Association before the Committee on Small Business, United States House of Representatives

business failures already. Home equity loan delinquencies rose from 3.5 percent to 4.0 percent. Personal loan delinquencies rose from 3.5 percent to 3.9 percent. Property improvement loan delinquencies rose from 1.5 percent to 1.8 percent.

We're seeing those national trends play out locally, too. For example, through September there were 23,245 Chapter 7 bankruptcy filings in North Georgia. That number is already 12.5 percent higher than full-year 2008 figures and 56 percent higher than the similar nine-month reporting period from a year ago, according to new data released last week by the U.S. Bankruptcy Court, Northern District of Georgia.

So, the ongoing challenge in this environment for both a borrower and a bank is to be as certain as possible that a person or business can repay a loan, and that just takes a lot of I-dotting and T-crossing in this economy.

It may not seem like it sometimes, especially if you are a borrower, but the reality is a loan decision starts from the point of view that the bank wants to ensure that a borrower isn't taking on more risk than his or her family or business can reasonably support. That's protection for the borrower and good underwriting for the bank.

Alongside the broad economic constraints affecting credit availability, many of our member banks simply are struggling to maintain adequate regulatory capital levels because of ongoing and rising numbers of troubled loans that are a direct result of the poor economy.

Regulators rightly require banks to maintain strong capital levels to cushion the blow of losses from bad loans. However, to keep those capital levels high, banks often can't deploy that capital to provide funding for additional credit to small business and other borrowers as they must use that capital to account for current and projected future loan losses.

And, unfortunately, the economy has also led to an estimated one-third of Georgia banks being subject to regulatory enforcement orders. These orders trigger a number of punitive measures such as restricting their emergency borrowing from the Federal Reserve, getting advances from the Federal Home Loan Bank, drawing down their credit lines from correspondent banks, or requiring the banks to shed low-cost brokered deposits.

In a state with already insufficient local deposits and private capital to internally fund economic expansion and lending, the rapid reduction or elimination of these funding sources is causing a severe constriction of credit. For example, in this climate economic problems tend to be geographically located in areas that experienced high growth and expansion. Because of the widespread economic distress, all banks in those regions are experiencing similar types and levels of problems. When regulators sweep in and apply funding and lending restrictions, it constricts credit for the entire geographic area. This has a deflationary and domino effect on property values.

In addition, these regulatory orders also have the result of restricting lending in other ways, too. Based on federal guidelines, a bank under a regulatory enforcement order is often told to reduce its concentration of real estate related loans. This is problematic because many of the small businesses our members have traditionally provided credit to are directly related to the real estate development and building sector.

So, while the regulatory order may not specifically say not to make new real estate loans, the only ways the bank can satisfy the order is to either not renew existing loans or ask for early repayment of the loans already on their books. Neither option is usually in the best interest of the bank's customers.

Another option is for the bank to sell the underlying note for the loan. But again, the bank is already working with the customer and it would seem to be in everyone's best interests to allow those relationships to remain in place. While we understand the concern with over-concentration in any one sector, it is extremely difficult to rapidly change that mix of loans in a troubled economy.

In a related issue, these same regulatory enforcement orders also restrict banks from extending or sometimes even renewing credit to borrowers who have other loans that are considered troubled or delinquent. On the one hand, banks are being asked to work with their borrowers to help them get through the difficult environment, but many of the regulatory orders simply make that practically impossible. The inability to work with a struggling business leads to premature business bankruptcy, closure and higher unemployment.

These are simplified examples, and each bank and borrower would have more complex and detailed issues, but they do illustrate just how difficult the environment is for our banks and a large number of the borrowers we've traditionally financed.

Compounding the credit availability issue are other regulatory and market forces that we believe continue to depress the value of borrowers' property and collateral. These issues include:

- Regulatory interpretations of accounting guidelines/FASB 114/5; fair value of real estate. The major ongoing concerns and frustration banks are having with regulators, are related to how regulators are interpreting the rules that apply to how much capital banks should be required to reserve for losses or potential losses against those assets. These interpretations are causing banks to use real capital for theoretical real estate losses, putting further stress on bank capital levels. For example, a bank may be required to write down the value of a property that could reasonably be well worth $1 million a year from now, but today is appraised for $500,000. The bank must show that difference as a loss, even if it intends to hold that property for some time. At the same time, banks are required to reserve more for theoretical losses, regulations also restrict the amount of that reserve that can be counted toward meeting regulatory capital guidelines to 1.25 percent. This is a classic and understandable over-reaction to economic down cycles. If we look back in history, we always swing that regulatory pendulum too far and force the build-up of excessive loan loss reserves at the bottom of a cycle, and then we ride those excessive reserves out for several years into the future, clearly indicating that we over-did it again.

- Downward pressure on asset prices caused by market forces and unintended consequences of government stability programs. The effects of overly aggressive discounting hurt borrowers when the value of their real estate pledged collateral is temporarily devalued, and also results in their struggling to meet either loan covenants requiring specific levels of collateral or selling properties at these lower values to repay or pay down loans. Banks are also being required to write down their real estate portfolios to these new values, which are unnecessary hits to capital. With market forces as well as government programs and actions, even well-intended ones, driving asset prices and valuations downward this steeply and this quickly, our fear is that there is not enough capital in the marketplace to sustain many banks located in the most troubled geographic areas. If we are to assume current values are permanent, there is not enough bank capital to sustain the industry nationally.

- Difficulty of obtaining reasonable and consistent property appraisals continues to put downward pressure on property and collateral values. Obtaining good appraisals in the current market is extremely difficult. Because the real estate market is so weak, appraisal assumptions sometimes do not realistically reflect absorption periods that take into account the naturally increasing demand as the economy recovers. This is especially true for vacant lots as their values will improve once today's excess inventory of homes and lots is absorbed. Regardless of the type of property being appraised in this environment, the result is appraised values seem unreasonably low when considering more realistic sales and absorption periods.

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- On October 1, 2009, amendments to Regulation Z, the Truth in Lending Act, became effective that address consumer protections for certain mortgage and home-equity loans. Intended to prevent unscrupulous subprime lending, parts of the new regulation apply to all loans secured by a consumer's principal residence. An unintended consequence of these new rules is that the loans covered by the definition of "higher-priced loans" are some home purchase loans, home-improvement loans, refinancings and home equity loans that had previously been considered by our members as prime loans. For most community banks, these are bread and butter mortgage loans made by community banks to customers who simply don't qualify for loans eligible for sale in the secondary market. These are not the negative-amortization, option-payment, short-term-teaser-rate, investment-grade loans traded by investors and Wall Street investment banks that have been so problematic throughout the recent financial crisis. These are three- or five-year balloon loans with an intended 15-20 year amortization. These are mortgages that are conservatively underwritten and the vast majority of our banks' customers never miss a payment. The purpose of the three-year term was to provide consumers with certain tax savings. With the new guidelines, these low-cost, in-house home mortgages have become impossible for many banks to make. Under the new requirements, underwriting for this type of mortgage must show that the borrower can repay the loan in full within three years as opposed to the intended 15-20 year period. The result is that the new provisions actually make reasonable mortgage credit less available for consumers in markets throughout Georgia where there are few options. In many cases, the costs and compliance risk associated with the new rules are causing many banks to simply stop making these types of mortgage loans available.

- We also understand that the Home Valuation Code of Conduct deployed in May 2009 by Freddie Mac and Fannie Mae is causing concern from banks and appraisers related to valuations. With its implementation, banks are more frequently using Appraiser Management Companies to order appraisals. The concern is that while the intent is to ensure fair and accurate independent appraisals, it may be having the unintended consequence that non-local appraisers are sometimes being assigned to do work when they aren't as familiar with local markets. Work is often awarded simply to the low-cost provider, which also affects appraisal accuracy. These appraisers have more difficulty in determining appropriate valuations because of their lack of local market knowledge and history, creating valuation disruption in the lending process.

Ideas and possible solutions

So, that's a broad overview of the environment for our banks and borrowers. Unfortunately, there are no easy fixes for these issues. As with any recovery from widespread economic stress, the key elements necessary are generally time for the economy as a whole to recover and flexibility from all parties involved.

However, we've identified several ideas and solutions we believe would strengthen our marketplace, keep more people in their jobs, more companies in business, and prevent more banks from being closed.

- Protect real estate values
    - Encourage more flexibility and less drastic interpretation of fair-value guidance and property valuations.

- Conserve and replenish bank capital
    - Allow a higher percentage of loan loss reserves to be counted as regulatory capital. There is an artificial cap of no more than 1.25% of a bank's loan loss reserve to be counted as Tier 2 capital. This capital is already on the banks' balance sheets, so allowing this as regulatory capital would

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not create any further risk to the bank or the FDIC fund. Of the 324 Georgia banks in operation as of June 30, seventy percent (226) of all Georgia banks were adversely affected by the restriction.
   - Eliminate restrictions and barriers to private capital investment in the banking industry.
   - Give serious consideration to responsible implementation of the Treasury's recent proposal for providing specific capital investments in viable community canks with less than $1 billion in assets.
   - Encourage the FDIC to consider longer-term alternatives to replenish the Deposit Insurance Fund than continuing to levy immediate and short-term assessments on banks. This can be done through borrowing from the banks or by utilizing the emergency borrowing authority from Treasury.
   - Enact legislation to lengthen the net-operating-loss carryback provision from two to five years for all banks

- Take other key steps to stabilize banks
   - Postpone a new FDIC regulation scheduled to go into effect Jan. 1, 2010, that requires banks that are less than well capitalized to use an FDIC national deposit product rate cap to set their rates. In many Georgia markets, the local rate is well above what will be the allowable national rate cap. If these banks cannot offer a responsible, local market rate, it will be difficult for them to keep their current depositors, much less attract new business.
   - Provide certain banks time and flexibility for reducing brokered deposits and allow them to renew at least a percentage of brokered deposits that are already on their books. Merely allowing banks to maintain their existing wholesale funding base would substantially increase the funding available for loans in Georgia.

- Support policy and regulatory actions that enable lending
   - Look for flexible or reasonable methods to slow the pace of federal regulatory enforcement actions that trigger lending restrictions on banks.
   - Re-examine Regulation Z "high-priced" loan categories that have resulted in less credit being available to many customers of traditional banks.

Working in partnership, we believe that banks, regulators and policymakers can use these ideas and solutions to speed economic recovery and market stability.

In Conclusion

Georgia's highly-regulated banking industry has been a key foundation for the growth and success our communities have enjoyed before the current recession. And, there is no argument that the past two years have been difficult for all Georgians, our businesses and our banks.

There's work to be done from all quarters to help get our economy back on track, and I assure you that the Georgia Bankers Association and our members are fully committed to working in cooperation with borrowers, businesses, regulators and policymakers to ensure that happens as quickly as possible.

Thank you again for having me today.

Comparison of Number of Failure Transactions to Number of Banks

State	# of Failures *	# of Total Banks	% of Total Banks
Nevada	6	44	13.6%
Oregon	3	40	7.5%
Georgia	**25**	**352**	**7.1%**
Idaho	1	19	5.3%
Arizona	3	57	5.3%
California	15	313	4.8%
Washington	3	97	3.1%
Utah	2	68	2.9%
Florida	9	317	2.8%
Illinois	17	671	2.5%
Wyoming	1	43	2.3%
Colorado	3	159	1.9%
Michigan	3	164	1.8%
New Jersey	2	125	1.6%
West Virginia	1	68	1.5%
Alabama	2	160	1.3%
Minnesota	5	430	1.2%
Missouri	4	350	1.1%
South Dakota	1	89	1.1%
Maryland	1	97	1.0%

** Indicates the number of failure transactions since 2008 to date.*

NOTE: Only includes States whose # of Failures as a % of Total Banks is greater than 1%.

States with Assistance Transactions Comparison to Number of Banks

State	# of Assist *	# of Total Banks	% of Total Banks
Delaware	1	33	3.0%
Nevada	1	44	2.3%
California	1	313	0.3%
South Dakota	2	89	2.2%

** Indicates the number of assistance transactions since 2008 to date. Includes institutions where assistance was provided under a systemic risk determination.*

Top 10 States with the Largest Amount of Assets for Bank Failure Transactions

(in millions)

State	#	Total Assets	Total Deposits
Nevada	6	314,264,924	194,800,387
California	15	58,808,292	40,504,131
Alabama	2	26,041,698	20,559,469
Texas	4	18,718,548	15,829,247
Florida	9	15,935,347	10,370,229
Georgia	25	15,029,088	13,123,428
Illinois	17	12,518,086	12,123,805
Indiana	1	2,839,747	2,254,025
Colorado	3	2,175,626	1,795,612
Arkansas	1	1,895,545	1,815,691

** Indicates the number of failure transactions since 2008 to date.*

Total Assets and Deposits of States with Bank Assistance Transactions

(in millions)

State	#	Total Assets	Total Deposits
Nevada	1	1,207,007,000	230,042,000
South Dakota	2	78,112,860	42,657,867
Delaware	1	19,599,414	7,231,013

** Indicates the number of assistance transactions since 2008 to date.*

STATEMENT OF JEFF BETSILL

Mr. BETSILL. Thank you for allowing me to be here today, Mr. Kucinich and Congressman Westmoreland, Mr. Scott. Thank you for taking the initiative to delve further into the problems that plague our industry and the general economy. I have spent many hours throughout the past 3 years speaking in this regard with a couple of my industry associates, Mr. Cumming and Mr. Patterson who are in California and have been pushing for finance reform for the last 3 years out there with Congressman Issa—I believe I said his name right.

I find it real ironic that I am here, a guy from, you know, BYU, Back Yard University, is sitting here amongst this panel discussing these issues that are very serious in nature and very, very dear to my heart, which is the homebuilding industry. For the last 35 years, that is what I have been involved with is home construction, home industry. My father, Alex, was a carpenter and I grew up working alongside him, learning the trade at a very early age. From my father, I learned the value of hard work and commitment to any task that I undertook, whether it was cutting grass or building a home, it was important to him that we have total commitment to what we did. I learned also to include the quality and do the right thing no matter what it cost, even if it was monetarily. Sometimes we do not always make money at everything we do, sometimes it costs us something. My love for taking a vacant lot and coordinating the materials and the labor to produce a great home has always driven me to stay in the homebuilding industry.

I would appreciate you granting me a moment to focus on the word "home." As was mentioned earlier, talking about it is not just foreclosures, but it is the effects of the foreclosures. A home, at the most heartfelt definition, is the place where Americans raise their families and share their joys and their hurts. As a young builder, I would converse with home buyers that purchased a home of mine, that it was the best investment they would ever likely make in their lives. Owning a home is a start to sharing in each other's lives. And of course, at that time, I believed the value of a home would always either maintain or increase in value. In the 32 years preceding the experience we are all now a part of, I had never seen the value of a home decrease. I obviously did not understand the factors controlling my world.

I sit before you today to discuss my experiences throughout the downturn with a particular construction lender in my business. Unfortunately, I hate to admit this, but early in my years of owning my own company, I was not nearly as schooled in the lending practices as I am today. I always believed that working hard, while considering the quality of the home and experience I was producing would pay a beneficial net result for all who was involved. I would be misleading this committee if I led you to believe I was an individual that completely understood what lenders of both construction and home loans, could and could not do.

I will share with you my experience with a lender to my organization and the effect their action had not only on my company, but also my employees and the general population. The particular situation I am referring to began in a subdivision in close proximity to where we sit today. This subdivision was named one of the top

30 subdivisions in the metro Atlanta market. We began construction using funds lent from this lender in late 2004. Three builders made the builder group in this subdivision and each builder I would say averaged approximately 25 home closings per year throughout late 2007. The margins we were able to get in this location were strong and we were building primarily on a pre-sale basis. It was truly our greatest source of income.

In mid-2008, we asked for a couple of speculative loans with a couple of pre-sale constructions with the lender. To approve the loan requests, the lender asked for routine information. In the prior years, approval was pretty much a guarantee in less than 2 or 3 weeks, especially at this subdivision. Well, approximately 3 weeks went by and we followed up for an update as to the loan requests. They requested additional, less typical information. We provided the requested information and another month or so went by without approval. Then we received a phone call from a loan officer we had known for many years working for the bank. In the conversation with him, he advised my company that our company's loan portfolio was moved to special assets division. Of course, I was completely shocked, given the rate of sales and margins being achieved, and asked the question why. The loan officer went on to state that the bank was looking at all collateral in place prior to the beginning of the downturn as—here is that word again—toxic assets. Of course, this was the reason behind the loan portfolio being moved to the special assets division of the bank. With the move of the loan portfolio to special assets, we were told nothing would change, just additional scrutiny for each request.

Additional scrutiny occurred and we provided more and more information. A few weeks more went by and then we were requested by the lender to travel to a location approximately an hour and a half away from our office for a meeting. At that meeting, the bank's loan officers advised me, which was two gentlemen I had never met before in my life—they advised me that they were proceeding with foreclosure on all my lots we had with them. They did the same with the other builder remaining in the subdivision. At the time, we were current, we were making our interest payments. It was approximately 6 months from the initial loan request to when the meeting occurred. During the foreclosure process, we had continued interest in building pre-sale homes in this particular subdivision and begged our lenders to allow us to do a workout strategy, even giving them options for our company working through all the lots in an 18-month period. Many additional options were provided to the lender in an effort to avoid foreclosure. At one point, we received a response that the lender was not considering any options and that they were proceeding toward final foreclosure. Which for me at that time, when that happened, it hit me in the stomach and just took all the life out of me at that point, whereas they told me they were going to foreclose on a perfectly good subdivision.

Of course, the impact on my company as a result of such a decision has been close to impossible to overcome. The subdivision was our income producer during a difficult time. The actions by the lender stigmatized my company and myself as a result of the foreclosure proceedings and have made it nearly impossible to obtain financing on any scale for continued operations. I have tried to work through my lots in inventory with additional lenders in a buildout program and have been fairly unsuccessful in that regard. And as kind of a side note there, I have had some small community lenders who have been creative in their approach to trying to work out buildout programs within the lots that we have with those small community builders. With the decision of our lenders to foreclose, we have lost two contracts to build pre-sales in that same location. We were forced also as a result of the loss of income, to lay off many employees.

We have witnessed similar situations occur time after time involving many builders in our area and have read stories nationwide which contain similar components to ours. These lenders have taken away all opportunities for producing income from thousands of builders and in turn, loaded the home market with thousands upon thousands of bank owned homes. As we are now well aware, the banks then unload the homes at a significantly depressed price, driving down the existing home values.

In closing, I would like to thank the committee for allowing me the opportunity to share my experiences today. I have done so in hopes that the citizens of this great Nation can gain an understanding that they are not alone in their frustrations with banks and lenders. I feel as many small businessmen and women and homeowners do that decades of hard work and dedication were erased by a few inconceivable decisions by single individuals.

Thank you very much.

Mr. KUCINICH. Thank you, Mr. Betsill.

The Chair recognizes Mr. Rossetti. You may proceed for 5 minutes.

[The prepared statement of Mr. Betsill follows:]

U.S. House Committee on Oversight and Government Reform
Domestic Policy Subcommittee

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."
November 2, 2009

Statement of Jeff Betsill

Chairman Kucinich, Congressman Westmoreland, thank you for allowing me to share my experiences with you today. I would also like to thank the committee for taking the initiative to delve further into the problems that have plagued our industry for the past three years. I have spent many hours throughout the past three years speaking with a couple of my industry associates, Bob Cumming and Nick Patterson from California. They requested me to thank the Congressman Westmoreland on their behalf.

My name is Jeff Betsill, and I have been in the residential construction industry for thirty five years. My father, Alex, was a carpenter and I grew up working alongside him, learning the trade from a very early age. From my father, I learned the value of hard work and commitment to any task undertaken. I learned to always include quality and do the right thing even if it costs you monetarily. My love for taking a vacant lot and coordinating materials and labor to produce a great home has always driven me to stay in homebuilding.

I would appreciate you granting me a moment to focus on the word "home". A home, at the most heartfelt definition, is a place where American's raise families, share joys and share hurt. As a young builder, I would converse with home buyers that the purchase of a home was the best investment they would likely ever make. Owning a home is a start to sharing in each other's lives. Of course, at the time, I believed the value of a home would always either maintain or increase in value. In the thirty two years preceding the experience we are all now a part of, I had never seen the value of a home decrease. I obviously did not understand the factors controlling my world.

So, where are we now? I sit before you today to discuss my experience throughout the downturn with a particular construction lender for my business. Unfortunately, and I hate to admit this, but early in my years of owning my own company, I was not nearly as schooled in lending practices as I am today. I always believed that working hard, while considering the quality of the home and experience I was producing, would pay beneficial net results for all individuals involved. I would be misleading this Committee if I led it to believe I was an individual that completely understood what lenders (both construction and home loan) could and could not do.

My hopes are that, by sharing my experience with a particular lender to my organization and the effect their actions had not only on my own company, but the general population. The particular situation I am referring to began in a subdivision of close proximity to where we sit today. This subdivision was named as one of the top thirty best selling subdivisions in the Metro Atlanta Market. We began construction using funds lent from this lender in late 2004. Three builders made the builder group in this subdivision, and each builder, I would say, averaged approximately twenty-five homes per year through late 2007. The margins we were able to get in this location were strong and we were building primarily on a pre-sale basis. It was truly our greatest source of income.

In mid 2008, we had requests in for a couple of speculative loans and a couple of pre-sale construction loans with this lender. To approve the loan requests, the lender asked for routine information (financials, plans, budgets, etc.). In the prior years, approval was pretty much a guarantee in less than two to three weeks, especially at this subdivision. Well, approximately three weeks went by and we followed up for an update as to the loan requests. They requested additional, less typical, information. We provided the requested information and another month or so went by without approval. We then received a phone call from a loan officer we had known for many years, working for the bank. In the conversation with him, he advised my company that our company's loan portfolio was moved to the special assets division. Of course, I was completely shocked given the rate of sales and margins being achieved and questioned as to why. The loan officer went on to state that the bank was looking at ALL collateral in place prior to the beginning of the downturn as a "toxic asset". Of course, this was the reason behind the loan portfolio being moved to the special assets division of the bank. With the move of the loan portfolio to special assets, we were told that nothing would change, just additional scrutiny for each request.

Additional scrutiny occurred of course, and we provided information on top of information. A few more weeks went by and we then were requested, by the lender, to travel to a location approximately an hour and a half from our office for a meeting. At that meeting, the banks loan officers advised me they were proceeding with foreclosure on all lots we had with them. They did the same with the other builder remaining in the subdivision. At the time, we were current and making interest payments. It was approximately six months from the initial loan request to when the meeting occurred. During the foreclosure process, we had continued interest in building pre-sale homes and practically begged the lender to allow us a workout strategy, even given them an option for our company working through all lots in eighteen months. Many additional options were provided to the lender in an effort to avoid foreclosure, at one point we received a response that the lender was not considering any further options and they were proceeding to final foreclosure.

Of course, the impact on my company as the result of such a decision has been close to impossible to overcome. The subdivision was our income producer during a difficult time. The actions by the lender stigmatized my company and myself as a result of the foreclosure proceedings and have made it nearly impossible to obtain financing on any scale for my company to continue operations. I have tried to work through my lot inventory with my additional lenders in a build out program, and have been fairly unsuccessful in that regard.

With the decision of the lender to foreclose, we lost the two contracts to build pre-sale homes at the subdivision. We were also forced, as a result of the loss of income, to lay off many employees.

We have witnessed similar situations occur time after time involving many builders in our area, and have heard stories nationwide which contain similar components to ours. These lenders have taken away all opportunities for producing income from thousands of builders and in turn, loaded the home market with thousands upon thousands of bank owned homes. The banks then unload the homes at significantly depressed prices, driving down existing home values further.

In closing, I would like to thank the Committee for allowing me the opportunity to share my experience today. I have done so in hopes that the citizens of this great nation can gain an understanding that they are not alone in their frustrations with banks and lenders. My personal opinion is that fourteen years of hard work and dedication were erased by a few inconceivable decisions of one lender. I am sure millions of Americans feel the same way.

STATEMENT OF MICHAEL ROSSETTI

Mr. ROSSETTI. Chairman Kucinich, Congressman Scott and my good friend Lynn Westmoreland, thank you very much. I appreciate the honor and the opportunity to testify before you on this very critical and tenuous subject. It is my opinion that the relationship between banks and all small business must be healthy for our company to begin to emerge from this economic hole we were in.

I have been involved in the building business in some form or fashion since I was 12 years old. My father was a builder and it was he that gave me the insight and the training in this business. I am the president of Ravin Homes, Inc. and have been since its inception in 1982. There are 12 direct employees and hundreds of subcontractors that derive some or all of their livelihood from my company. In my 27 years of business, I can proudly say that I have never missed a payroll.

As I am sure you are aware, the building business is a very capital intensive business and the banks play a pivotal role in a builder's production capabilities. Even the most well-heeled builders must go to a bank and get construction loans to supplement their cash-flow until the home is purchased. In the past, lenders of all sizes would loan money to my company and assist with my production. Through the years, I have enjoyed great relationship with virtually all of my lenders, both large and small. They have included Bank of America, Regions Bank and Wachovia on the large bank end of the spectrum as well as the Bank of Georgia, the Bank of North Georgia and Southern Community Bank on the small bank side. Up until this downturn, it was relatively easy to do business with all of them if your credit was satisfactory. Sadly, this is not the case now.

In general, the small banks, those with less than a billion dollars in assets, in my area have issues with capital requirements that regulators have declared are inadequate. Mr. Brannen mentioned that in his testimony. Due to this, they are unable to lend money to me for construction. I have two pre-sold homes that I have under construction in a Fayetteville subdivision that no one would lend me the money to build. I had to build them out of pocket. I have been to no less than eight banks in my quest to find financing and have not been successful. Virtually all of the small banks wanted to do the loans, however, due to regulatory risks, they could not.

I must say that my relationship with the small banks is very positive concerning the existing loans that I have on their books. They are generally very cooperative with revising loan repayments to fit the current economic environment. Their attitude is that if there is any chance of their customer surviving this downturn, it is worthwhile to help them. Their attitude is closer to that of a partner rather than an adversary. This is not so with the big banks.

Of the three largest banks I referenced, Wachovia is by far the best to deal with. And that is because I have a relationship with the lender, and have had it there for over 15 years. He respects my judgment and I his. On the other side of the spectrum, Regions Bank and Bank of America have been extremely difficult to deal with. Their attitude has been when the loans are due, they want to be paid off, or they threaten to proceed with a collection action.

The Bank of America has threatened to sweep proceeds of my sales closings to satisfy payments over and above a predetermined payoff, even though the loan is performing. I am paying the interest, it is up to date, they are billing me the interest. They want to sweep all my proceeds and put my company out of business. If they pursue this action, that is what it will do, put my company out of business. In this case, as with most large banks, I am dealing with someone I have never met working out of Tennessee who knows nothing of my past relationship with Bank of America or my reputation in the industry.

This demonstrates an attitude that is all too prevalent in the large bank environment. It seems that the TARP money that they received has been used to shore up their capital position and made it easier for them to foreclose and liquidate troubled loans rather than working with the borrowers.

Again, I would like to thank you for your time and look forward to answering any questions you may have.

Mr. KUCINICH. I thank the gentleman.

Mr. Greenlee, you are recognized.

[The prepared statement of Mr. Rossetti follows:]

U.S. House Committee on Oversight and Government Reform
Domestic Policy Subcommittee

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."
November 2, 2009

Statement of V. Michael Rossetti

Chairman Kucinich, Congressman Westmoreland and Members of the Committee, I sincerely appreciate the honor and the opportunity to testify before you on this very critical and tenuous subject. It is my opinion that the relationship between banks and small business must be healthy for our country to begin to emerge from this economic hole we are in.

My name is V. Michael Rossetti and I have been involved in the building business in some form or fashion since I was 12 years old. My father was a builder and it was he that gave me the insight and the training in this business. I am the president of Ravin Homes, Inc. and have been since it's inception in 1982. There are 12 direct employees and hundreds of subcontractors that derive some or all of their livelihood from my company. In my 27 years of business I can proudly say that I have never missed a payroll.

As I am sure you are aware, the building business is very capitol intensive and banks play a pivotal role in a builder's production capabilities. Even the most well heeled builders need to get temporary loans or construction loans to supplement their cash flow until the home is purchased. In the past, lenders of all sizes would loan money to my company to assist with my production. Through the years I have enjoyed a great relationship with virtually all of my lenders both large and small. They had included Bank of America, Regions Bank and Wachovia on the large bank end of the spectrum as well as The Bank of Georgia, The Bank of North Georgia and Southern Community Bank on the small bank side. Up until this downturn, it was relatively easy to do business with all of them if your credit was satisfactory. Sadly, this is not the case now.

In general, the small banks (those with less than $1 billion of assets) in my area have issues with capitol requirements that regulators have declared are inadequate. Due to this they are unable to lend money to me for construction. I have two pre-sold homes in a Fayetteville subdivision under construction that no one could or would lend me the money to construct. I have been to no less than eight banks in my quest. Virtually all of the small banks wanted to do the loans however due to regulatory risks they couldn't.

I must say that my relationship with small banks is very positive concerning the existing loans that I have on their books. They are very cooperative with revising loan repayments to fit the current economic environment. Their attitude is that if there is any chance of their customer surviving this downturn it is worthwhile to help him. Their attitude is closer to that of a partner rather than an adversary. This is not so with the big banks.

Of the three largest banks I referenced, Wachovia is by far the best to deal with. My relationship is with a lender that I have known for 15+ years. He respects my judgment and I his. On the other side of the spectrum, Regions Bank and Bank of America have been extremely difficult to deal with. Their attitude has been when loans are due they want to be paid off or they threaten to proceed with a collection action. Bank of America has threatened to sweep proceeds of my sales closings to satisfy payments over and above a predetermined payoff, even though the loan is performing. If they pursue this action it will put me out of business. In this case (as with most large banks) I am dealing with someone I have never met, working out of Tennessee who knows nothing of my past relationship with Bank of America or my reputation in the industry.

This demonstrates an attitude that is all too prevalent in the large bank environment. It seems that the TARP money that they received has been used to shore up their capitol position and made it easier for them to foreclose and liquidate their "troubled loans" rather than working with the borrower.

Again, I would like to thank you for your time today and I look forward to answering any questions you may have.

STATEMENT OF JON D. GREENLEE

Mr. GREENLEE. Chairman Kucinich, Congressman Westmoreland, Congressman Scott, I appreciate the opportunity to appear before you today to examine several issues related to the banking system.

Although conditions in the financial markets have improved in recent months, significant stress persists and borrowing by businesses and households has remained weak.

The condition of the banking system is far from robust, as the economic downturn, increases in unemployment and weaknesses in real estate markets has resulted in significant loan quality problems and losses in many banking organizations, many of whom are also challenged by subpar earnings and questions about capital adequacy.

In Georgia, the performance of banking organizations has also deteriorated. Like their counterparts nationally, banks in Georgia have seen a steady rise in non-current loans and provisions for loan losses which have weighed on bank earnings and capital, and 25 banks have failed in the State since the turmoil in the financial markets emerged more than 2 years ago.

Substantial financial challenges remain for banking institutions both in Georgia and across the United States. In particular, some banks that have built up unprecedented concentrations in commercial real estate loans will be particularly affected by strained conditions in real estate markets.

From a supervisory perspective, the Federal Reserve has been focused on CRE exposures for some time. As economic conditions have deteriorated, we have devoted more resources to assessing the quality of CRE portfolios at institutions with large concentrations and have also significantly enhanced our system-wide training efforts.

Last Friday, Federal and State banking regulatory agencies issued additional inter-agency guidance on CRE loan restructurings and workouts. The development of this guidance was led by the Federal Reserve and is designed to address concerns that examiners may not always take a balanced approach to assessments of CRE credit, particularly if banks were to restructure loans. This new guidance supports balanced and prudent decisionmaking with respect to loan restructuring and timely recognition of losses.

At the same time, our examiners have observed incidents where banks have been close to acknowledging climbs in CRE project cash-flows and collateral values in their subsequent or potential loan reviews. As noted in the guidance, the expectation is that banks should restructure CRE loans in a prudent manner and not simply renew a loan in an effort to delay the loss recognition.

Finally, the Federal Reserve announced that starting in June 2009, newly issued high-quality commercial mortgage bank securities would be eligible collateral under the TALF program, followed by a more recent announcement that high quality legacy CMBS issued before January 1, 2009 would be eligible collateral under TALF beginning in July. The provision of TALF financing for high quality issued CMBS is consistent with other Federal Reserve programs designed to improve credit markets and support new lending for credit worthy properties.

In summary, it will take some time for the financial markets to fully recover. The Federal Reserve is committed to working with other banking agencies and the Congress to promote the concurrent goals of fostering credit availability in local communities across the country and promoting a safe and sound banking system.

Accordingly, we thank the subcommittee for holding this important hearing and I look forward to your questions.

[The prepared statement of Mr. Greenlee follows:]

For release on delivery
11:30 a.m. EST
November 2, 2009

Statement
Of
Jon D. Greenlee
Associate Director
Division of Banking Supervision and Regulation
Board of Governors of the Federal Reserve System

Domestic Policy Subcommittee
Oversight and Government Reform Committee

Committee Room 450 of the Georgia State Capitol Building
206 Washington Street Southwest
Atlanta Georgia

Monday, November 2, 2009
11:30 a.m.

"Examining the Continuing Crisis in Residential Foreclosures and the Emerging Commercial Real Estate Crisis: Perspectives from Atlanta."

Chairman Kucinich, Ranking Member Jordan, and members of the Subcommittee, I appreciate the opportunity to appear before you today to examine several issues related to the condition of the banking system. First, I will discuss credit conditions and bank underwriting standards, with a particular focus on commercial real estate (CRE), and I will briefly address conditions in the state of Georgia. I will then describe Federal Reserve activities to enhance liquidity and improve conditions in financial markets. Finally, I will discuss the ongoing efforts of the Federal Reserve to ensure the overall safety and soundness of the banking system, as well as actions taken to promote credit availability.

Background

The Federal Reserve has supervisory and regulatory authority for bank holding companies, state-chartered banks that are members of the Federal Reserve System (state member banks), and certain other financial institutions and activities. We work with other federal and state supervisory authorities to ensure safety and soundness of the banking industry, foster stability of the financial system, and provide for the fair and equitable treatment of consumers in financial transactions. The Federal Reserve is not the primary federal supervisor for the majority of commercial banks. Rather, it is the consolidated supervisor of bank holding companies, including financial holding companies, and conducts inspections of those institutions.

The primary purpose of inspections is to ensure that the holding company and its nonbank subsidiaries do not pose a threat to the soundness of the company's depository institutions. In fulfilling this role, the Federal Reserve is required to rely to the fullest extent possible on information and analysis provided by the appropriate supervisory authority of the company's bank, securities, or insurance subsidiaries. The Federal Reserve is also the primary federal supervisor of state member banks, sharing supervisory responsibilities with state agencies. In this role, Federal Reserve supervisory staff regularly conduct on-site examinations and off-site monitoring to ensure the safety and soundness of supervised state member banks. A key aspect of the supervisory process is evaluating risk-management practices.

The Federal Reserve is involved in both regulation--establishing the rules within which banking organizations must operate--and supervision--ensuring that banking organizations abide by those rules and remain, overall, in safe and sound condition. Because rules and regulations in many cases cannot reasonably prescribe the exact practices each individual bank should use for risk management, supervisors design policies and guidance that expand upon requirements set in rules and regulations and establish expectations for the range of acceptable practices. Supervisors rely extensively on these policies and guidance as they conduct examinations and assign supervisory ratings.

Beginning in the summer of 2007, the U.S. and global economies entered a period of intense financial turmoil that has presented significant challenges for the financial services industry. These challenges intensified in the latter part of 2008 as the global economic environment weakened further. As a result, parts of the U.S. banking system have come under severe strain, with some banking institutions suffering sizable losses. The number of bank failures has also risen this year.

Conditions in Financial Markets and the Economy

Although conditions and sentiment in financial markets have improved in recent months, significant stress and weaknesses persist. Corporate bond spreads remain high by historical standards as both expected losses and risk premiums remain elevated. Encouragingly, economic growth moved back into positive territory last quarter, in part reflecting a pickup in consumer spending and an increase in residential investment. However, the unemployment rate has continued to rise, reaching 9.8 percent in September.

In this environment, borrowing by businesses and households has remained weak. The available data suggest that household and nonfinancial business debt likely decreased in the third quarter after having contracted in the first half of the year. For households, residential mortgage debt and consumer credit fell sharply in the first half of the year, and the decline in consumer credit continued in July and August. Nonfinancial business debt also decreased modestly in the first half of 2009 and appears to have contracted further in the third quarter as net decreases in commercial paper outstanding and bank loans more than offset solid net issuance of corporate bonds.

Loans outstanding at depository institutions fell in the second quarter of 2009. In addition, the Federal Reserve's weekly bank credit data suggest that bank loans to households and to nonfinancial businesses contracted sharply in the third quarter as well. These declines reflect the fact that weak economic growth can both dampen demand for credit and lead to tighter credit supply conditions. Tighter credit conditions are especially challenging for small businesses, which tend to rely more heavily on despository institutions for credit. There are more than 27 million small businesses nationally that employ about half of the nation's private-sector workforce and these businesses have approximately $1 trillion in debt. In a recent National Federation of Independent Business survey, small businesses reported that credit conditions were about as tight as in previous recessions; at the same time, their main economic concern was lower sales.

Results from the Federal Reserve's Senior Loan Officer Opinion Survey on Bank Lending Practices in July indicate that both the availability and demand for bank loans are well below pre-crisis levels. In July, more banks reported tightening their lending standards on consumer and business loans than reported easing, although the degree of net tightening was well below levels reported last year. Almost all of the banks that tightened standards indicated concerns about a weaker or more uncertain economic outlook, and about one-third of banks surveyed cited concerns about deterioration in their own current or future capital positions. The survey also indicated that demand for consumer and business loans had weakened further. Indeed, decreased loan demand from creditworthy borrowers was the most common explanation given by respondents for the contraction of business loans this year.

Loan quality deteriorated significantly for both large and small institutions during the second quarter of this year. At the largest 50 bank holding companies, nonperforming assets climbed more than 20 percent, raising the ratio of nonperforming assets to 4.3 percent of loans and other real estate owned. Most of the deterioration was concentrated in residential mortgage and construction loans, but commercial, CRE, and credit card loans also experienced rising delinquency rates. Results of the banking agencies' Shared National Credit review, released in September, also document significant deterioration in large syndicated loans, signaling likely further deterioration in commercial loans.[1] At community and small regional banks, nonperforming assets increased to 4.4 percent of loans at the end of the second quarter, more than six times the level for this ratio at year-end 2006, before the financial crisis began. Home mortgages and CRE loans accounted for most of the increase, but commercial loans have also shown marked deterioration during recent quarters.

As a result, credit losses at banking organizations continued to rise, and banks face risks of sizable additional credit losses given the outlook for production and employment. In addition, while the year-on-year decline in housing prices slowed in the second quarter, continued adjustments in the housing market suggest that foreclosures and mortgage loss severities are likely to remain elevated. Moreover, the value of both existing commercial properties and land,

[1] See Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and Office of Thrift Supervision (2009), "Credit Quality Declines in Annual Shared National Credits Review," joint press release, September 24.

which collateralize commercial and residential development loans, have declined sharply in the first half of this year, suggesting that banks are vulnerable to significant further deterioration in their CRE loans. In sum, banking organizations continue to face significant challenges, and credit markets are far from fully healed.

Performance of the Banking System

Despite these challenges, the stability of the banking system has improved since last year. Many financial institutions have raised significant amounts of capital and have achieved greater access to funding. Importantly, through the rigorous Supervisory Capital Assessment Program (SCAP) stress test conducted by the banking agencies earlier this year, some institutions demonstrated that they have the capacity to withstand more-adverse macroeconomic conditions than are expected to develop and have repaid the government's Troubled Asset Relief Program (TARP) investments.[2] Depositors' concerns about the safety of their funds during the immediate crisis last year have also largely abated. As a result, financial institutions have seen their access to core deposit funding improve.

However, the condition of the banking system is far from robust. Two years into a substantial economic downturn, loan quality is poor across many asset classes and, as noted earlier, continues to deteriorate as weakness in housing markets affects the performance of residential mortgages and construction loans. Higher loan losses are depleting loan loss reserves at many banking organizations, necessitating large new provisions that are producing net losses or low earnings. In addition, although capital ratios are considerably higher than they were at the start of the crisis for many banking organizations, poor loan quality, subpar earnings, and uncertainty about future conditions raise questions about capital adequacy for some institutions.

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[2] For more information about the SCAP, see Ben S. Bernanke (2009), "The Supervisory Capital Assessment Program," speech delivered at the Federal Reserve Bank of Atlanta 2009 Financial Markets Conference, held in Jekyll Island, Ga., May 11, www.federalreserve.gov/newsevents/speech/bernanke20090511a.htm.

Diminished loan demand, more-conservative underwriting standards in the wake of the crisis, recessionary economic conditions, and a focus on working out problem loans have also limited the degree to which banks have added high-quality loans to their portfolios, an essential step to expanding profitable assets and thus restoring earnings performance.

In Georgia, the performance of banking organizations has deteriorated significantly over the past several quarters as the region's real estate expansion reversed course. Like their counterparts nationally, Georgia banks have seen a steady rise in non-current loans and provisions for loan losses, which have weighed on bank earnings and capital. Since the turmoil in financial markets emerged more than two years ago, 25 banks in Georgia have failed. Notably, almost all of the banks that have failed in Georgia thus far were located in the metro-Atlanta market and had a high percentage of total loans in land acquisition, development, and construction. Most of the lending activity at these failed banks was related to the region's housing boom in the first half of this decade. Also of note, many of the failed banks relied heavily on brokered deposit funding to support what had been very strong asset growth. At the end of 2007, the average ratio of brokered deposit funds was 13 percent at banks in the state of Georgia, compared to just 7 percent at the national level.

It is clear that substantial financial challenges remain for banking institutions, both in Georgia and across the United States. In particular, some large regional and community banking firms that have built up unprecedented concentrations in CRE loans will be particularly affected by emerging conditions in real estate markets.

Current Conditions in Commercial Real Estate Markets

The Federal Reserve has been focused on CRE exposures at supervised institutions for some time. As part of our supervision of banking organizations in the early part of this decade, we observed rising CRE concentrations, especially in some large regional and community banking firms. Given the central role that CRE lending played in the banking problems of the late 1980s and early 1990s, we led an interagency effort to develop supervisory guidance on CRE concentrations. The guidance was finalized in 2006 and published in the Federal Register in early 2007. In that guidance, we emphasized our concern that some institutions' strategic-and capital-planning processes did not adequately recognize the risks arising from their CRE concentrations. We stated that institutions actively involved in CRE lending should perform ongoing assessments to identify and manage concentrations through stress testing and similar exercises were needed to identify the potential impact of adverse market conditions on earnings and capital.

As weaker housing markets and deteriorating economic conditions have impaired the quality of CRE loans at supervised banking organizations, the Federal Reserve has devoted significantly more resources to assessing the quality of regulated institutions' CRE portfolios. These efforts include monitoring the impact of declining cash flows and collateral values, as well as assessing the extent to which banks have been complying with the CRE guidance. Reserve Banks that are located in more adversely affected geographic areas have been particularly focused on evaluating exposures arising from CRE lending. We have found, through horizontal reviews and other examination activities, that many institutions would benefit from portfolio-level stress testing, improved management information systems, and more robust appraisal practices. Additionally, some institutions need to improve their understanding of how single-name, sectoral and geographic concentrations can impact capital levels during downturns.

Prices of existing commercial properties have already declined substantially from the peak in 2007 and will likely decline further. As job losses have accelerated, demand for commercial property has declined and vacancy rates have increased. The higher vacancy levels and significant decline in the value of existing properties have placed particularly heavy pressure on construction and development projects that do not generate income until after completion. Developers typically depend on the sales of completed projects to repay their outstanding loans, and with prices depressed amid sluggish sales, many developers are finding their ability to service existing construction loans strained.

As a result, Federal Reserve examiners are reporting a sharp deterioration in the credit performance of loans in banks' portfolios and loans in commercial mortgage-backed securities (CMBS). At the end of the second quarter of 2009, approximately $3.5 trillion of outstanding debt was associated with CRE, including loans for multifamily housing developments. Of this, $1.7 trillion was held on the books of banks and thrifts, and an additional $900 billion represented collateral for CMBS, with other investors holding the remaining balance of $900 billion. Also at the end of the second quarter, about 9 percent of CRE loans in bank portfolios were considered delinquent, almost double the level of a year earlier.[3] Loan performance problems were the most striking for construction and development loans, especially for those that financed residential development. More than 16 percent of all construction and development loans were considered delinquent at the end of the second quarter.

Of particular concern, almost $500 billion of CRE loans will mature during each of the next few years. In addition to losses caused by declining property cash flows and deteriorating conditions for construction loans, losses will also be boosted by the depreciating collateral value underlying those maturing loans. The losses will place continued pressure on banks' earnings, especially those of smaller regional and community banks that have high concentrations of CRE loans.

The current fundamental weakness in CRE markets is exacerbated by the fact that the CMBS market, which previously had financed about 30 percent of originations and completed

[3] The CRE loans considered delinquent on banks' books were non-owner-occupied CRE loans that were 30 days or more past due.

construction projects, has remained closed since the start of the crisis. Delinquencies of mortgages backing CMBS have increased markedly in recent months. Market participants anticipate these rates will climb higher by the end of this year, driven not only by negative fundamentals but also by borrowers' difficulty in rolling over maturing debt. In addition, the decline in CMBS prices has generated significant stresses on the balance sheets of financial institutions that must mark these securities to market, further limiting their appetite for taking on new CRE exposure.

Federal Reserve Activities to Help Revitalize Credit Markets

The Federal Reserve, along with other government agencies, has taken a number of actions to strengthen the financial sector and to promote the availability of credit to businesses and households. In addition to aggressively easing monetary policy, the Federal Reserve has established a number of facilities to improve liquidity in financial markets. One such program is the Term Asset-Backed Securities Loan Facility (TALF), which was announced in November 2008 to facilitate the extension of credit to households and small businesses.

Before the crisis, securitization markets were an important conduit of credit to the household and business sectors; some have referred to these markets as the "shadow banking system." Securitization markets (other than those for mortgages guaranteed by the government) closed in mid-2008, with most of the issuance since that time importantly dependent on government support. Under the TALF, eligible investors may borrow to finance purchases of the AAA-rated tranches of various classes of asset-backed securities. The program originally focused on credit for households and small businesses, including auto loans, credit card loans, student loans, and loans guaranteed by the Small Business Administration. More recently, investors have also been able to use the TALF to purchase both existing and newly issued CMBS, which were included to help mitigate the refinancing problem in that sector.

The TALF has had some success in restarting securitization markets. Rate spreads for asset-backed securities have declined substantially, and there is some new issuance that does not depend on the facility. By improving credit market functioning and adding liquidity to the system, the TALF and other programs have provided critical support to the financial system and the economy.

Availability of Credit

The Federal Reserve has long-standing policies in place to support sound lending and credit intermediation. Guidance issued during the CRE downturn in 1991 and in effect today instructs examiners to ensure that regulatory policies and actions do not inadvertently curtail the availability of credit to sound borrowers.[4] This guidance also states that examiners should ensure that loans are being reviewed in a consistent, prudent, and balanced fashion to prevent inappropriate downgrades of credits. It is consistent with guidance published in early 2007 that addressed risk management of CRE concentrations. The 2007 guidance states that institutions that have experienced losses, hold less capital, and are operating in a more risk-sensitive environment are expected to employ appropriate risk-management practices to ensure their viability.[5]

We are currently in the final stages of developing interagency guidance on CRE loan restructurings and workouts. Banks have raised concerns that Federal Reserve examiners are not always taking a balanced approach to the assessment of CRE loan restructurings. At the same time, our examiners have observed incidents where banks have been slow to acknowledge

[4] See Board of Governors of the Federal Reserve System, Division of Banking Supervision and Regulation (1991), "Interagency Examination Guidance on Commercial Real Estate Loans," Supervision and Regulation Letter SR 91-24 (November 7), www.federalreserve.gov/BoardDocs/SRLetters/1991/SR9124.htm; and Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Federal Reserve Board, and Office of Thrift Supervision (1991), "Interagency Policy Statement on the Review and Classification of Commercial Real Estate Loans," joint policy statement, November 7,www.federalreserve.gov/BoardDocs/SRLetters/1991/SR9124a1.pdf.
[5] See Board of Governors of the Federal Reserve System, Division of Banking Supervision and Regulation (2007), "Interagency Guidance on Concentrations in Commercial Real Estate," Supervision and Regulation Letter SR 07-1 (January 4), www.federalreserve.gov/boarddocs/srletters/2007/SR0701.htm.

declines in CRE project cash flows and collateral values in their assessment of potential loan repayment. This new guidance supports balanced and prudent decisionmaking with respect to loan restructuring, accurate and timely recognition of losses, and appropriate loan classification. The guidance reiterates that classification of a loan should not be based solely on a decline in collateral value, in the absence of other adverse factors, and that loan restructurings are often in the best interest of both the financial institution and the borrower. The expectation is that banks should restructure CRE loans in a prudent manner, recognizing the associated credit risk, and not simply renew a loan in an effort to delay loss recognition.

Prudent real estate lending depends upon reliable and timely information on the market value of the real estate collateral. This has been a cornerstone of the regulatory requirements for real estate lending and is reflected in the agencies' appraisal regulations. In that regard, the Federal Reserve requires its regulated institution to have real estate appraisals that meet minimum appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and contain sufficient information to support the institution's credit decision. Over the past several years, the Federal Reserve has issued several appraisal-related guidance documents to emphasize the importance of a bank's appraisal function and the need for independent and reliable appraisals. More recently, the Federal Reserve and the other federal agencies issued a proposal to revise the Interagency Appraisal and Evaluation Guidelines, which is expected to be finalized in the coming months. These guidelines reinforce the importance of sound appraisal practices.

Given the lack of market sales in many markets and the predominant number of distressed sales in the current environment, regulated institutions face significant challenges today in assessing the value of real estate. We expect institutions to have policies and procedures for obtaining new or updated appraisals as part of their ongoing credit review. An institution should have appraisals or other market information that provide appropriate analysis of the market value of the real estate collateral and reflect relevant market conditions, the property's current "as is" condition, and reasonable assumptions and conclusions. Bank examiners generally will not challenge an institution's appraisal and other collateral valuation information that are based on well-supported analysis.

Guidance issued in November 2008 by the Federal Reserve and the other federal banking agencies also encouraged banks to meet the needs of creditworthy borrowers in a manner consistent with the principles of safety and soundness while taking a balanced approach in assessing borrowers' ability to repay and making realistic assessments of collateral valuations.[6] In addition, the Federal Reserve has directed examiners to be mindful of the effects of excessive credit tightening in the broader economy, and we have implemented training for examiners and outreach to the banking industry to underscore these intentions. We are aware that bankers may become overly conservative in an attempt to ameliorate past weaknesses in lending practices, and we are working to emphasize that it is in all parties' best interests to continue making loans to creditworthy borrowers.

Conclusion

While financial market conditions in the United States have improved notably over the past year, the overall environment continues to be somewhat strained, and some geographic areas like the Southeast are experiencing more difficultly than others. The Federal Reserve, working with the other banking agencies has acted--and will continue to act--to ensure that the banking system remains safe and sound and is able to meet the credit needs of our economy. We have aggressively pursued monetary policy actions and have provided liquidity to help repair the

[6] See Board of Governors of the Federal Reserve System, FDIC, Office of the Comptroller of the Currency, and Office of Thrift Supervision (2008), "Interagency Statement on Meeting the Needs of Creditworthy Borrowers," joint press release, November 12, www.federalreserve.gov/newsevents/press/bcreg/20081112a.htm.

financial system. In our supervisory efforts, we are mindful of the risk-management deficiencies at banking institutions revealed by the financial crisis and are ensuring that institutions develop appropriate corrective actions.

It will take some time for the banking industry to work through this current set of challenges and for the financial markets to fully recover. In this environment, the economy will need a strong and stable financial system that can make credit available. We want banks to deploy capital and liquidity, but in a responsible way that avoids past mistakes and does not create new ones. The Federal Reserve is committed to working with other banking agencies and the Congress to promote the concurrent goals of fostering credit availability and a safe and sound banking system.

Thank you again for your invitation to discuss these important issues at today's hearing. I would be happy to answer any questions that you may have.

Mr. KUCINICH. I thank the gentleman. We are now going to go to questions of the witnesses and I am going to extend a courtesy to Mr. Westmoreland to lead off the questioning for 5 minutes.

Mr. WESTMORELAND. Thank you. Mr. Greenlee, do you see—since this hearing has been announced and even before that, I got calls from bankers, community bankers basically, that came to my office and said look, we need some help. You know, we have the Federal Reserve, the FDIC, telling us we need to get TARP money, we are right in the middle of capital raising, we applied for TARP and then got turned down, which killed our ability to raise capital. And the regulators are the ones that told us to apply for the TARP money.

I mean, we are creating a snowball and I do not care if you talk to Mr. Rossetti, Mr. Betsill, Mr. Brannen, Mr. Schneggenburger, Ms. Redmond or whatever, we are creating a snowball with the TARP money. I mean, TARP was intended to free up credit. Credit has not been freed up. It was there to set a floor to these assets, there has been no floor set. It is being used by the big banks to take advantage of the smaller banks and individuals.

Now the Federal Reserve needs to step in at some point and do something with this. I am very sorry that no one is here from the FDIC. Mr. Greenlee, do you see anything that the Federal Reserve can do to help these banks? The regulators that are coming into these community banks especially, they have no idea about community banking. I am saying none of them have ever been in community banking. And so we are in the process of snowballing the effect, the reverse effect, of what this TARP money was actually supposed to do. Is the Federal Reserve doing anything to free up credit?

Mr. GREENLEE. Thank you for your comments, Congressman Westmoreland.

We have, over the past few years, have also heard concerns about what examiners are doing in the field and concerns about considering locality in our examination process in that examiners may not always be taking a fair and balanced approach to reviewing in particular commercial real estate loans. So we began an effort in early 2008 to strengthen and enhance our training for all our Federal Reserve examiners to make sure they understood what our guidance was, what our expectations were. In November 2008, we issued inter-agency guidance that encouraged banks to extend credit, make credit available for credit worthy borrowers and I think our last action consistent with that is the guidance we issued last Friday to try to address the concerns that we have heard that examiners may be going too far, not recognizing the borrower's ability to repay a particular loan. That is our longstanding policy and we thought it was an appropriate time to issue that guidance.

Mr. WESTMORELAND. I hate to interrupt you, but you heard testimony from two people today that were current with their loan payments, they were not behind in their loan payments. But because of regulations where these banks were told—and Mr. Brannen testified to this—they were told to reduce the real estate portfolios. Then when the people that had the loans could not produce the additional equity, even though they were not behind in their loans, they became toxic assets and the snowball just rolled on down the hill. Have you all not seen that?

Mr. GREENLEE. Well, it is difficult to, you know, go into each of these situations because I do not have all the facts in front of me on the particular situations. As I noticed——

Mr. WESTMORELAND. Well, if you can just tell me what you are doing to free up credit. What is the Federal Reserve doing today to free up credit? And I know you probably do not have time today but if you could just send me a note and Mr. Kucinich a note, Mr. Scott a note and let me know what you are doing to free up credit, so we can tell some of these people that the Federal Reserve is actually doing something to try to free it up.

Mr. Brannen, I want to mention to you some regulations. I know that capital that you used to have to have on hand used to be what, 6 percent? And it went to 12 percent?

Mr. BRANNEN. It is according to what kind of capital you are talking about.

Mr. WESTMORELAND. OK. I am talking about the money that you have to have in reserve.

Mr. BRANNEN. Six and 10. It's tier one and tier two. My friend from the Fed can give you the exact numbers.

Mr. WESTMORELAND. As to how much capital you have to have? They are making a lot of banks both increase the capital that they have——

Mr. BRANNEN. That is correct.

Mr. WESTMORELAND [continuing]. And reduce their real estate portfolios.

Mr. BRANNEN. That is correct.

Mr. WESTMORELAND. Is it not true that most banks do not make a lot of money off free checking?

Mr. BRANNEN. No, sir.

Mr. WESTMORELAND. And so, I mean, listen, I understand, but we have to have the credit market freed up. Would you not agree that has been the cause of some of these bank failures, is the fact that they were not—or they put so much pressure on some of their borrowers that they ended up losing them?

Mr. BRANNEN. Absolutely. You are absolutely right. And both Mr. Betsill and Mr. Rossetti pointed out exactly the problems that you and I have talked about many, many times about how difficult it is. The banks are being told—it is numbers driven. If your asset concentration is more than what some number out of Washington says it is in real estate, then you have to get below that number.

Mr. WESTMORELAND. Even if they are performing.

Mr. BRANNEN. Even if they are performing numbers. And in a market like Georgia, fast-growing, positively growing State like our State, and you see those numbers—we have been above—the average-numbers in Georgia have been above the guidance numbers for years. So now we are being told to forget those numbers, get back below what that guidance was. That guidance has now become hard fact and they are forcing the banks to reduce their concentration level. And this is the result. This is exactly the result. It is not what—I do not think the regulators mean for that to happen, but that is the result of it.

Mr. WESTMORELAND. OK, thank you, Mr. Chairman.

Mr. KUCINICH. I thank the gentleman.

The Chair recognizes Mr. Scott for 5 minutes.

Mr. SCOTT. Thank you very much.

Mr. Greenlee, let me—each time that your boss has come before our Financial Services Committee, Chairman Bernanke, the question has been put to him by myself, why we cannot use TARP money to help these banks, the community banks. And each time, Mr. Geithner will come before our committee. Then before that, when we were putting the $700 billion package together the first time and I asked why can we not set 2 or 3 percent of this aside, of this TARP money, to help prevent home foreclosures and get money down so people can stay in their homes. Secretary Paulson at that time said we can only use this to buy troubled assets, we cannot use this for anything but buy toxic assets. And we left and went home that Friday. By Monday, when we got back, all of a sudden we could use that TARP money to bailout the automobile companies, to do other things and almost everything but buy toxic assets that the program was aimed at.

So I would like for you to make sure that—we need help in getting money and capital down to these struggling community banks, especially here in Georgia. Georgia is the epicenter, the fact that we have 25 banks in Georgia to close in the last 12 months is unacceptable and I want to enlist your help for this committee. You have heard Mr. Brannen, you have heard the committee and our sentiment. We need to get the TARP money. J.P. Morgan Chase, others are paying their TARP money back. They not only are paying it back, but they are paying with interest. Even if we could just say let us put the interest in a pool to get down to the community bankers. So I just want to stress to you that you will convey the sentiments of this hearing as well as the other things that Mr. Westmoreland asked for you to do in communicating with us, and see if we cannot get some benefit out of this hearing, that we can put some energy behind both the Fed and the Treasury to get on our side of getting some TARP down to the banks.

Now Joe, Mr. Brannen—I am so used to talking to you that way—for some that may not know, this is my old Rules Committee chair, chaired the Rules Committee in the Senate, was in his office many times. You have heard some of the complaints here. Ms. Redmond gave a very touching—and we have had so many examples. What is your reaction to her testimony? I mean as the head of the banking association, I know you all do not get directly into it, but I would just like, because we are getting a lot of this kind of testimony and I just wanted to know your reaction to this. What do you say about her testimony?

Mr. BRANNEN. If you would regulate companies like she talked about, those companies that are flying high with essentially no regulation.

Mr. SCOTT. For the record, would you give the name of that company? I had never heard of it. What was the name of the company?

Ms. REDMOND. Diversified Mortgage.

Mr. SCOTT. What was Saxton?

Ms. REDMOND. Saxon Mortgage was the name.

Mr. SCOTT. But they are no longer in business?

Ms. REDMOND. No, Saxon is still in business.

Mr. SCOTT. OK, they are still in business.

Ms. REDMOND. Yes, that is the one I am with right now.

Mr. SCOTT. Are you familiar with that, Mr. Brannen?

Mr. BRANNEN. I have never heard of it; no, sir, I have not. Our view is if you would regulate those unregulated mortgage companies to the same extent you regulate the traditional commercial banks, then most of that would be solved. To hear those stories are just heart wrenching to know that here is someone who worked as hard as she worked on her own, did what she was supposed to do and be treated by an unregulated lender like she is, is just outrageous. We want her in our lobby and hopefully we can join the chairman in working with her.

Mr. SCOTT. I want to get back also to your point, what is the breakdown——

Mr. KUCINICH. The gentleman's time has expired, but you can ask your question and Mr. Brannen can answer.

Mr. SCOTT [continuing]. Of the three major barriers to getting TARP money, from your perspective? I know that many banks, several have called our office, they have been denied. What are the three barriers?

Mr. BRANNEN. It was not transparent. We have no idea what the application process was and who would qualify. So some transparency from the Treasury Department on what it takes to qualify, so we would know who should apply for it.

Second is the bar was set so high on what was in the bank's portfolios already, especially in the metropolitan Atlanta area, on real estate, they got disqualified immediately.

And third, they were not allowed to count the investment after they got the TARP on whether or not they would be a viable institution. They said you are not viable now, so we are not going to give it. With that TARP, they would have been viable and some of those banks would be open today and some that are struggling will be open if we can get that.

Mr. SCOTT. Thank you very much.

Mr. KUCINICH. I thank the gentleman for his questions.

I want to start my 5 minute period. Mr. Greenlee, there has been a bit of attention paid today to credit that is too tight and bailouts for big banks. The Federal Reserve is now paying interest on excess required reserves and the Fed will pay interest on those reserves for many years into the future. Is that practice not going to be an ongoing subsidy to big banks? And how much is that subsidy going to be worth over the next 10 years—$50 billion, $100 billion?

Mr. GREENLEE. I am not aware if there is a subsidy from that. There was a regulation passed to allow banks to earn, you know, interest paid by the Fed on excess reserves. That was, unfortunately, not something in my banking supervision role.

Mr. KUCINICH. I am going to read you something from a recent analysis of the role of the Fed in the financial collapse. This is from an article in the New York Review of Books, it is on the stands right now.

"In many cases, there were relevant regulations that might have been used and were disregarded. The Federal Reserve, for example, had the authority to investigate the risks posed by different kinds of mortgages. One of the Governors, Edward M. Gramlich, publicly urged such an inquiry in the early 2000's but Alan Greenspan, then chairman, rejected his advice. Commercial banks also had off-balance sheet subsidiaries, known as structured investment vehicles, that enabled them to invest aggressively with low levels of capital. The Fed could have investigated or more closely restricted these entities, but it did not."

Your comment, please.

Mr. GREENLEE. Mr. Chairman, we have studied these issues closely. We have enacted rules to address the unfair and deceptive practices and in terms of the off balance sheet entities, we have closely looked at those. Many of them have come back onto the banks' balance sheets. We have looked at how they have been structured. We are trying to think of what appropriate capital rules need to be going forward to adjust those kinds of things.

Mr. KUCINICH. One of the things that bothers me, with all due respect, is that right now the Fed is looking at trying to gain more oversight responsibility. There is legislation trying to make that happen. And even in your brief answer, what I did not see, I did not hear, was any accountability whatsoever. It is kind of mysterious how the Fed can simultaneously be an invisible hand and then when the hand goes in the wrong direction, that hand did not exist.

So I just thought I would—this will be an ongoing discussion between me and the Fed, you can bet.

I just want to conclude by asking Ms. Redmond, you are a college-educated woman who was talked into signing a mortgage loan document that you did not want and then affirmatively told by your mortgage lender to stop making your monthly payments.

What advice would you give to others who are facing what you faced?

Ms. REDMOND. Just do not give up, keep calling, talking to different people to make sure you understand what exactly is being put in front of you. As I said before, I will never make this mistake again but just read everything. Hopefully, the RRC counseling will help individuals to kind of know what they are signing. I have done this like five times or six times with my previous house. You know, I have always trusted the mortgage company to do everything and never had no problem like this. But like I said, my case is clearly—I had a 3.7 LIBOR and it went to 7.3. If I saw the word LIBOR, I would not sign it. I did not hear that from them.

Mr. KUCINICH. I thank you very much for your testimony, as I thank all the witnesses here. We have concluded the testimony of the witnesses, but I am going to use my discretion as Chair to ask Mr. Westmoreland if he would like to make a brief closing statement. You may proceed right now.

Mr. WESTMORELAND. Thank you, Mr. Chairman. Ms. Redmond, you are not by yourself, we hear cases like that every day and it is a real shame when people get to the closing table and the deal has been changed. And that is really against the law, we need to be doing more with that.

Let me just say this, that, you know, a lot of people that are in our regulatory institutions in Washington, they need to get out more. They need to come walk around a town square and they need to walk through some of these neighborhoods and they need to talk to people and get some real life experiences about what is going on in the country.

The other thing is that with the 100 banks that we have had fail in the United States, it has been projected that is going to cost us over $100 billion over 4 years—$100 billion. If we had taken and just given $20 million to each one of those failing banks, they would probably be in business today. So if we can take these regulators that go out and say we need to reduce your real estate portfolio by 25 percent, we need to up your capital by $5 million—if we could say, OK, you know what, we are going to give you that money, we are going to loan you that money and we are going to give you 18 months or 2 years to come out from this, they can gradually do it, rather than get this 90 day cease and desist, sell the stuff at a fire sale and cause everybody's property values to get hurt. I hope the Federal Reserve will look at something like that.

Mr. Chairman, I think it has come to our attention today listening to some of the testimony that some of these regulations have been enforced when they want to be and how they want to be, with no consistency in how these regulations have been administered to these banks. It is picking and choosing, picking winners and losers and we have to stop that.

And again, I want to thank all the witnesses, both panels, that were here to testify today. I hope that this is just not a hearing where we came to talk, but it is a hearing where we came to learn the facts and we can try to do some appropriate legislation to fix some of these problems that have been identified today.

Again, Mr. Chairman, I want to thank you for your willingness to come to Atlanta and let us hold this hearing. So thank you.

Mr. KUCINICH. Thank you, Congressman Westmoreland.

The Chair recognizes Congressman Scott for concluding remarks.

Mr. SCOTT. Thank you so much, Mr. Chairman. I want to thank you for hosting this hearing, it has been very informative, been very productive and I certainly appreciate your leadership, the leadership of my colleague from Georgia Mr. Westmoreland in this.

Let me just say that as one serving on the Financial Services Committee, this has been extraordinarily enlightening for me. And we have two programs out working now, as I think everybody knows, we talked about, the Making Home Affordable Program that we have out to address the foreclosure situation. I have had some good feedback from that. We are going to get the recommendations that one of our earlier persons had. The Neighborhood Stabilization Program, which we already have money out that is working. So there are things out there that are working that we will get feedback on to see how we can improve. And I have asked them to send me those recommendations that I can take them up with Chairman Barney Frank as we submit those letters to him and to other colleagues.

Mr. Brannen, I would like to ask the same thing of you, if you could get those points to me, because as my fellow committee members know, the Financial Services Committee is the committee that is handling so much of this and so it is very helpful to me, and that is why I doubly appreciate you letting me join you all. But if you could get that to me, I believe, and with your help, Mr. Greenlee, because that is going to be very helpful. We are going to have

Chairman Bernanke to come back before the committee and then we can redress that, and I certainly hope that you will put a bug in his ear on that. And we will get those points if you will get those letters to me.

So, Mr. Chairman, thank you so much. It has been very helpful and I appreciate it greatly.

Mr. KUCINICH. Thank you very much, Congressman Scott, and thank you, Congressman Westmoreland and the witnesses.

We have heard from 14 witnesses today who represent every level of the community in Atlanta and have been involved in the commerce of the community, and who are trying to make sure that a system is created that can enable people to buy homes, have credit and enable businesses to stay alive without getting hammered by a financial system that suddenly turned against them when they in fact helped build that system.

As chairman of this subcommittee, I am very concerned about what I have seen in that the instrument of government is being used to take the wealth of the nation, even the wealth of pretty good-sized banks, collapse it and just accelerate it upwards. Very dangerous for our democracy. Mr. Brannen, if you cannot keep your banks going in Georgia, there is something wrong. So we are all in it together and Ms. Redmond, if what happened to you happened to many others, and Mr. Westmoreland told me he has heard about 50 stories like that, and I have heard plenty of stories in my own area in Cleveland; it is just heartbreaking, it is chilling. But we also know that there is an arc of economic justice here that must be followed and if we are going to be worthy of the name of Members of the House of Representatives, we have to follow that arc in your behalf and behalf of those who are situated like you.

I want to thank all those in the audience here today for their attention; the witnesses; and again, my colleagues and staff for helping to put this hearing together. Our subcommittee will continue to investigate this matter as to how it happened, but also we will be there with recommendations so we know that we can move toward a future which is fair and just and where we can get home ownership and home building going again in America.

This committee stands adjourned.

[Whereupon, at 2:24 p.m., the subcommittee was adjourned.]

[Additional information submitted for the hearing record follows:]

Submitted for the Record by Andy Schneggenburger

AFFORDABLE RENTAL HOUSING
A.C.T.I.O.N.
A Call To Invest in Our Neighborhoods

Consensus Housing Credit Proposal Talking Points

Background

- The most successful affordable rental housing production program in U.S. history — The Low Income Housing Tax Credit (Housing Credit) — has been adversely affected by the financial crisis.
- Housing Credit investment has dropped from about $9 billion in 2006-2007 to $5.5 billion in 2008, and, absent Congressional action, will likely drop further in 2009.
- The lack of investment capital is preventing the development of affordable housing at a time when need is greater than ever.
- The lack of development means tens of thousands of lost construction jobs, as many as 90,000 annually.
- The stimulus bill that passed Congress in February – the American Recovery and Reinvestment Act (ARRA) – provided a temporary solution for 2009: gap financing and approval for states to exchange some of their Housing Credit authority for direct funds from the Treasury.
- But those programs will expire at the end of this year and Congress needs to figure out where we go from here.

Industry Consensus

- Over the summer, an extraordinarily broad coalition of national, state, and local organizations active on affordable housing issues has reached a consensus on proposed legislative solutions.
- This coalition includes state housing agencies, developers, investors, Housing Credit syndicators, and affordable housing advocacy groups.
- We would like Congress to consider our proposals as part of the upcoming legislation to extend expiring tax provisions. Without extension, the temporary Housing Credit provisions will expire at the end of this year.

Proposals

- First, we would like to extend the Housing Credit exchange program from ARRA for one more year, and allow states to exchange Housing Credits generated from tax-exempt bond financed housing.

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- Second, we would like to stimulate and restore long-term investment by increasing the Housing Credit carryback to up to five years in two ways:
  - For existing housing, this proposal would ONLY apply to Housing Credits if investors reinvest the entire amount carried back immediately into new Housing Credit investments.
  - For new housing, this proposal would make the Housing Credit more competitive with other tax credits with shorter compliance and holding periods, by permitting future credits to be carried back up to five years throughout the 10-year credit period.
- Finally, we propose to further broaden the investment base by permitting pass-through entities – LLCs and Subchapter S corporations – and closely held corporations to utilize the Housing Credit program as a means of attracting equity capital to rural areas of the country. This would diversify the investor base to include entities outside of commercial banking.
- We believe these are modest proposals that will restore affordable housing development throughout the country, create construction jobs, and help generate economic growth.

What are the impacts of these proposals?

- They would increase investment in the Housing Credit nationally by at least $5 billion more through 2011 than what the Housing Credit is projected to raise without legislation.
- Combined with the extension of the exchange, this would lead to:
  - 123,000 more affordable apartments constructed or rehabilitated,
  - 232,000 more jobs created or saved,
  - $50 billion in additional local income, and
  - $8 billion in additional taxes and revenue to localities nationwide.

Please go to http://rentalhousingaction.edicypages.com/about-action/state-fact-sheets for state-specific fact sheets on the economic impact of these proposals.

Tuesday, September 22, 2009

Georgia gets a 'D' for housing, home ownership

Atlanta Business Chronicle

Georgia, which has been rocked by a high rate of foreclosures in recent years, was given a "D" in housing and home ownership in the Corporation for Enterprise Development's (CFED) 2009-2010 Assets & Opportunities Scorecard published Tuesday.

The bi-annual assessment of the financial security of households and individuals said Georgia must take several steps to improve financial security, including protecting the real estate market from predatory mortgage lending.

In Georgia, CFED found the median mortgage debt as a percentage of home value was 100.6 percent. This means the median homeowner in the Peach State is under water on his mortgage. The national median is 76.9 percent. Georgia ranks 49th in this category, ahead of only Michigan and Nevada.

"This data from the Scorecard, along with recently released numbers showing over a half million mortgages underwater in our state, is a clear signal that the foreclosure crisis is far from over," said **Georgia Watch** Executive Director Angela Speir Phelps.

The Scorecard also laid out recommendations for Georgia to improve asset building and preservation, including addressing lending practices. Georgia can improve its "D" grade in housing and home ownership by banning prepayment penalties and adopting sound underwriting standards, the survey noted.

AFFORDABLE RENTAL HOUSING A.C.T.I.O.N.
A Call To Invest in Our Neighborhoods

Affordable Rental Housing A.C.T.I.O.N.

Georgia Fact Sheet

The financial crisis has reduced investment in the most successful affordable rental housing production program in U.S. history — the Low Income Housing Tax Credit (Housing Credit). This program is the primary resource for the development of affordable rental housing nationwide. Since 1986, the Housing Credit has financed 9 out of every 10 of America's apartments for low-income families, providing affordable housing to more than 2 million Americans. Just before the financial crisis hit, the Housing Credit program financed about 120,000 apartments each year nationwide. In **Georgia,** the Housing Credit financed **6,165 affordable rental homes** annually.

Due to the weakened economy, investor participation is down by more than a third, from its peak in 2006. As a result of reduced demand for Housing Credits, capital sources for affordable rental housing are scarce. Absent Congressional action, this reduced demand will lead to roughly **60,000 fewer apartments** nationwide constructed or preserved annually, despite the fact that affordable rental housing is needed now more than ever. Furthermore, such reduced Housing Credit investment will likely lead to **90,000 lost construction jobs across the nation.**

What remains of most Housing Credit investment now is largely concentrated in developments in major metropolitan areas where the Community Reinvestment Act (CRA) is the primary motivation for investor demand for the Housing Credit. This makes it even more difficult to attract investment for housing located in rural areas or for smaller developments that do not satisfy CRA needs. For **Georgia**, this could mean a loss of up to **925** rental homes in rural areas annually and a loss of smaller developments of **90** apartments or fewer in size.

To address this reduced investment in affordable rental housing, the Affordable Rental Housing A.C.T.I.O.N. (A Call To Invest in Our Neighborhoods) grassroots campaign formed this year, led by a broad national coalition of cross-industry organizations, to draft consensus legislative proposals to restore investment in affordable rental housing. The campaign website www.rentalhousingaction.org provides up-to-date information on the campaign, the supporters and the legislative proposals.

If the A.C.T.I.O.N. campaign's legislative proposals are adopted, investment in both large and small developments as well as in metro and rural regions across the country will increase by nearly 50 percent in 2010 and 2011, according to a September 2009 report by Ernst & Young. Nationally, according to the report, the proposals would increase investment in the Housing Credit by at least **$5 billion** more through 2011 than what the Housing Credit is projected to raise without legislation. Combining this increased investment with an extension and modification of the exchange program, the proposals would lead to at least **123,000** more affordable apartments constructed or rehabilitated, **232,000** more jobs created or saved, **$50 billion** in additional local income and **$8 billion** in additional taxes and revenue to states and localities nationwide than if Congress does not act.

Georgia stands to benefit from at least **$188.4 million** in additional equity investment through 2011 that will be used to construct or rehabilitate **5,618** more affordable rental homes, providing safe, affordable housing to low-income families, while also stimulating the economy through the creation of **8,484** jobs.

This increased investment in **Georgia** would result in an additional **$2,285.3 million** in local income as apartments are constructed or rehabilitated and occupied during the 15-year Housing Credit compliance period. In addition to the jobs created through construction and development, the ongoing operation and occupancy of these apartments will also indirectly stimulate new jobs in retail, business services and other industries, resulting in an estimated **2,135** new ongoing jobs annually. Localities in **Georgia** can expect to see a return of **$357.5 million** in local government tax revenue due to the impacts of construction and the expansion of the tax base due to the ongoing operation of the apartment communities.